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Contents

Federal Register

Vol. 64, No. 196

Tuesday, October 12, 1999

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

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

3CFR

Executive Orders

12473 (Amended by EO 13140).....55115
12478 (see EO 13140).....55115
12550 (see EO 13140).....55115
12586 (see EO 13140).....55115
12708 (see EO 13140).....55115
12767 (see EO 13140).....55115
12888 (see EO 13140).....55115
12936 (see EO 13140).....55115
12960 (see EO 13140).....55115
13086 (see EO 13140).....55115
13140.....55115

10 CFR

Proposed Rules:

2.....55176

11 CFR

110.....55125

12 CFR

910.....55125

14 CFR

71.....55131
97 (3 documents) 55132, 55133, 55135

Proposed Rules:

39 (12 documents) 55177, 55181, 55184, 55188, 55191, 55195, 55196, 55197, 55200, 55204, 55207, 55211

20 CFR

Proposed Rules:

404.....55214
422.....55216

26 CFR

1.....55137

33 CFR

117.....55137
165.....55138

Proposed Rules:

117.....55217

40 CFR

52 (2 documents) 55139, 55141
62.....55141
201.....55141
271 (2 documents) 55142, 55153

Proposed Rules:

52 (2 documents) 55219, 55220
271.....55222

44 CFR

206.....55158

47 CFR

0.....55161
64 (2 documents) 55163, 55164
73 (7 documents) 55172, 55173, 55174

Proposed Rules:

73 (2 documents) 55222, 55223

Federal Register
Vol. 64, No. 196
Tuesday, October 12, 1999

Presidential Documents

Title 3—

The President

Executive Order 13140 of October 6, 1999

1999 Amendments to the Manual for Courts-Martial, United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), in order to prescribe amendments to the Manual for Courts-Martial, United States, prescribed by Executive Order 12473, as amended by Executive Order 12484, Executive Order 12550, Executive Order 12586, Executive Order 12708, Executive Order 12767, Executive Order 12888, Executive Order 12936, Executive Order 12960, and Executive Order 13086, it is hereby ordered as follows:

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:

a. R.C.M. 502(c) is amended to read as follows:

''(c) Qualifications of military judge. A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court or a member of the bar of the highest court of a State and who is certified to be qualified for duty as a military judge by the Judge Advocate General of the armed force of which such military judge is a member. In addition, the military judge of a general court-martial shall be designated for such duties by the Judge Advocate General or the Judge Advocate General's designee, certified to be qualified for duty as a military judge of a general court-martial, and assigned and directly responsible to the Judge Advocate General or the Judge Advocate General's designee. The Secretary concerned may prescribe additional qualifications for military judges in special courts-martial. As used in this subsection ''military judge'' does not include the president of a special court-martial without a military judge.''

b. R.C.M. 804 is amended by redesignating the current subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

''(c) Voluntary absence for limited purpose of child testimony.

(1) Election by accused. Following a determination by the military judge that remote live testimony of a child is appropriate pursuant to Mil. R. Evid. 611(d)(3), the accused may elect to voluntarily absent himself from the courtroom in order to preclude the use of procedures described in R.C.M. 914A.

(2) Procedure. The accused's absence will be conditional upon his being able to view the witness' testimony from a remote location. Normally, a two-way closed circuit television system will be used to transmit the child's testimony from the courtroom to the accused's location. A one-way closed circuit television system may be used if deemed necessary by the military judge. The accused will also be provided private, contemporaneous communication with his counsel. The procedures described herein shall be employed unless the accused has made a knowing and affirmative waiver of these procedures.

(3) Effect on accused's rights generally. An election by the accused to be absent pursuant to subsection (c)(1) shall not otherwise affect the accused's right to be present at the remainder of the trial in accordance with this rule.''

c. The following new rule is inserted after R.C.M. 914:

''Rule 914A. Use of remote live testimony of a child

(a) General procedures. A child shall be allowed to testify out of the presence of the accused after the military judge has determined that the requirements of Mil. R. Evid. 611(d)(3) have been satisfied. The procedure used to take such testimony will be determined by the military judge based upon the exigencies of the situation. However, such testimony should normally be taken via a two-way closed circuit television system. At a minimum, the following procedures shall be observed:

(1) The witness shall testify from a remote location outside the courtroom;

(2) Attendance at the remote location shall be limited to the child, counsel for each side (not including an accused pro se), equipment operators, and other persons, such as an attendant for the child, whose presence is deemed necessary by the military judge;

(3) Sufficient monitors shall be placed in the courtroom to allow viewing and hearing of the testimony by the military judge, the accused, the members, the court reporter and the public;

(4) The voice of the military judge shall be transmitted into the remote location to allow control of the proceedings; and

(5) The accused shall be permitted private, contemporaneous communication with his counsel.

(b) Prohibitions. The procedures described above shall not be used where the accused elects to absent himself from the courtroom pursuant to R.C.M. 804(c).''

d. R.C.M. 1001(b)(4) is amended by inserting the following sentences between the first and second sentences:

''Evidence in aggravation includes, but is not limited to, evidence of financial, social, psychological, and medical impact on or cost to any person or entity who was the victim of an offense committed by the accused and evidence of significant adverse impact on the mission, discipline, or efficiency of the command directly and immediately resulting from the accused's offense. In addition, evidence in aggravation may 3

include evidence that the accused intentionally selected any victim or any property as the object of the offense because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.''

e. R.C.M. 1003(b) is amended—

(1) by striking subsection (4) and

(2) by redesignating subsections (5), (6), (7), (8), (9), (10), and (11) as subsections (4), (5), (6), (7), (8), (9), and (10), respectively.

f. R.C.M. 1004(c)(7) is amended by adding at end the following new subsection:

''(K) The victim of the murder was under 15 years of age.''

Sec. 2. Part III of the Manual for Courts-Martial, United States, is amended as follows:

a. Insert the following new rule after Mil. R. Evid. 512:

''Rule 513. Psychotherapist-patient privilege

(a) General rule of privilege. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made between the patient and a psychotherapist or an assistant to the psychotherapist, in a case arising under the UCMJ, if such communication was made for the purpose of facilitating diagnosis or treatment of the patient's mental or emotional condition.

(b) Definitions. As used in this rule of evidence:

(1) A ''patient'' is a person who consults with or is examined or interviewed by a psychotherapist for purposes of advice, diagnosis, or treatment of a mental or emotional condition.

(2) A ''psychotherapist'' is a psychiatrist, clinical psychologist, or clinical social worker who is licensed in any state, territory, possession, the District of Columbia or Puerto Rico to perform professional services as such, or who holds credentials to provide such services from any military health care facility, or is a person reasonably believed by the patient to have such license or credentials.

(3) An ''assistant to a psychotherapist'' is a person directed by or assigned to assist a psychotherapist in providing professional services, or is reasonably believed by the patient to be such.

(4) A communication is ''confidential'' if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional services to the patient or those reasonably necessary for such transmission of the communication.

(5) ''Evidence of a patient's records or communications'' is testimony of a psychotherapist, or assistant to the same, or patient records that pertain to communications by a patient to a psychotherapist, or assistant to the same for the purposes of diagnosis or treatment of the patient's mental or emotional condition.

(c) Who may claim the privilege. The privilege may be claimed by the patient or the guardian or conservator of the patient. A person who may claim the privilege may authorize trial counsel or defense counsel to claim the privilege on his or her behalf. The psychotherapist or assistant to the psychotherapist who received the communication may claim the privilege on behalf of the patient. The authority of such a psychotherapist, assistant, guardian, or conservator to so assert the privilege is presumed in the absence of evidence to the contrary.

(d) Exceptions. There is no privilege under this rule:

(1) when the patient is dead;

(2) when the communication is evidence of spouse abuse, child abuse, or neglect or in a proceeding in which one spouse is charged with a crime against the person of the other spouse or a child of either spouse;

(3) when federal law, state law, or service regulation imposes a duty to report information contained in a communication;

(4) when a psychotherapist or assistant to a psychotherapist believes that a patient's mental or emotional condition makes the patient a danger to any person, including the patient;

(5) if the communication clearly contemplated the future commission of a fraud or crime or if the services of the psychotherapist are sought or obtained to enable or aid anyone to commit or plan to commit what the patient knew or reasonably should have known to be a crime or fraud;

(6) when necessary to ensure the safety and security of military personnel, military dependents, military property, classified information, or the accomplishment of a military mission;

(7) when an accused offers statements or other evidence concerning his mental condition in defense, extenuation, or mitigation, under circumstances not covered by R.C.M. 706 or Mil. R. Evid. 302. In such situations, the military judge may, upon motion, order disclosure of any statement made by the accused to a psychotherapist as may be necessary in the interests of justice; or

(8) when admission or disclosure of a communication is constitutionally required.

(e) Procedure to determine admissibility of patient records or communications.

(1) In any case in which the production or admission of records or communications of a patient other than the accused is a matter in dis-

pute, a party may seek an interlocutory ruling by the military judge. In order to obtain such a ruling, the party shall:

(A) file a written motion at least 5 days prior to entry of pleas specifically describing the evidence and stating the purpose for which it is sought or offered, or objected to, unless the military judge, for good cause shown, requires a different time for filing or permits filing during trial; and

(B) serve the motion on the opposing party, the military judge and, if practical, notify the patient or the patient's guardian, conservator, or representative that the motion has been filed and that the patient has an opportunity to be heard as set forth in subparagraph (e)(2).

(2) Before ordering the production or admission of evidence of a patient's records or communication, the military judge shall conduct a hearing. Upon the motion of counsel for either party and upon good cause shown, the military judge may order the hearing closed. At the hearing, the parties may call witnesses, including the patient, and offer other relevant evidence. The patient shall be afforded a reasonable opportunity to attend the hearing and be heard at the patient's own expense unless the patient has been otherwise subpoenaed or ordered to appear at the hearing. However, the proceedings shall not be unduly delayed for this purpose. In a case before a court-martial composed of a military judge and members, the military judge shall conduct the hearing outside the presence of the members.

(3) The military judge shall examine the evidence or a proffer thereof in camera, if such examination is necessary to rule on the motion.

(4) To prevent unnecessary disclosure of evidence of a patient's records or communications, the military judge may issue protective orders or may admit only portions of the evidence.

(5) The motion, related papers, and the record of the hearing shall be sealed and shall remain under seal unless the military judge or an appellate court orders otherwise.''

b. Mil. R. Evid. 611 is amended by inserting the following new subsection at the end:

(d) Remote live testimony of a child.

(1) In a case involving abuse of a child or domestic violence, the military judge shall, subject to the requirements of subsection (3) of this rule, allow a child victim or witness to testify from an area outside the courtroom as prescribed in R.C.M. 914A.

(2) The term ''child'' means a person who is under the age of 16 at the time of his or her testimony. The term ''abuse of a child'' means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child. The term ''exploitation'' means child pornography or child prostitution. The term ''negligent treatment'' means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to endanger seriously the physical health of the child. The term ''domestic violence'' means an offense that has as an element the use, attempted use, or threatened use of physical force against a person and is committed by a current or former spouse, parent, or guardian of the victim; by a person with whom the victim shares a child in common; by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or by a person similarly situated to a spouse, parent, or guardian of the victim.

(3) Remote live testimony will be used only where the military judge makes a finding on the record that a child is unable to testify in open court in the presence of the accused, for any of the following reasons:

(A) The child is unable to testify because of fear;

(B) There is substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying;

(C) The child suffers from a mental or other infirmity; or

(D) Conduct by an accused or defense counsel causes the child to be unable to continue testifying.

(4) Remote live testimony of a child shall not be utilized where the accused elects to absent himself from the courtroom in accordance with R.C.M. 804(c).''

Sec. 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

a. Insert the following new paragraph after paragraph 100:

100a. Article 134—(Reckless endangerment)

a. Text. See paragraph 60.

b. Elements.

(1) That the accused did engage in conduct;

(2) That the conduct was wrongful and reckless or wanton;

(3) That the conduct was likely to produce death or grievous bodily harm to another person; and

(4) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. Explanation.

(1) In general. This offense is intended to prohibit and therefore deter reckless or wanton conduct that wrongfully creates a substantial risk of death or serious injury to others.

(2) Wrongfulness. Conduct is wrongful when it is without legal justification or excuse.

(3) Recklessness. ''Reckless'' conduct is conduct that exhibits a culpable disregard of foreseeable consequences to others from the act or omission involved. The accused need not intentionally cause a resulting harm or know that his conduct is substantially certain to cause that result. The ultimate question is whether, under all the circumstances, the accused's conduct was of that heedless nature that made it actually or imminently dangerous to the rights or safety of others.

(4) Wantonness. ''Wanton'' includes ''reckless,'' but may connote willfulness, or a disregard of probable consequences, and thus describe a more aggravated offense.

(5) Likely to produce. When the natural or probable consequence of particular conduct would be death or grievous bodily harm, it may be inferred that the conduct is ''likely'' to produce that result. *See* paragraph 54c(4)(a)(ii).

(6) Grievous bodily harm. ''Grievous bodily harm'' means serious bodily injury. It does not include minor injuries, such as a black eye or a bloody nose, but does include fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other serious bodily injuries.

(7) Death or injury not required. It is not necessary that death or grievous bodily harm be actually inflicted to prove reckless endangerment.

d. Lesser included offenses. None.

e. Maximum punishment. Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

f. Sample specification. In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 19____, wrongfully and recklessly engage in conduct, to wit:

(he/she)(describe conduct) and that the accused's conduct was likely to cause death or serious bodily harm to _____.''

Sec. 4. These amendments shall take effect on 1 November 1999, subject to the following:

a. The amendments made to Military Rule of Evidence 611, shall apply only in cases in which arraignment has been completed on or after 1 November 1999.

b. Military Rule of Evidence 513 shall only apply to communications made after 1 November 1999.

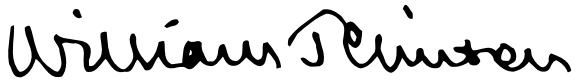
c. The amendments made to Rules for Courts-Martial 502, 804, and 914A shall only apply in cases in which arraignment has been completed on or after 1 November 1999.

d. The amendments made to Rules for Courts-Martial 1001(b)(4) and 1004(c)(7) shall only apply to offenses committed after 1 November 1999.

e. Nothing in these amendments shall be construed to make punishable any act done or omitted prior to 1 November 1999, which was not punishable when done or omitted.

f. The maximum punishment for an offense committed prior to 1 November 1999, shall not exceed the applicable maximum in effect at the time of the commission of such offense.

g. Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to 1 November 1999, and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.



THE WHITE HOUSE,
October 6, 1999.

Changes to the Analysis Accompanying the Manual for Courts-Martial, United States.

1. *Changes to Appendix 21, the Analysis accompanying the Rules for Courts-Martial, United States (Part II, MCM).*

a. R.C.M. 502(c). The analysis accompanying R.C.M. 502(c) is amended by inserting the following at the end thereof:

''1999 Amendment: R.C.M. 502(c) was amended to delete the requirement that military judges be ''on active duty'' to enable Reserve Component judges to conduct trials during periods of inactive duty for training (IDT) and inactive duty training travel (IATT). The active duty requirement does not appear in Article 26, UCMJ which prescribes the qualifications for military judges. It appears to be a vestigial requirement from paragraph 4e of the 1951 and 1969 MCM. Neither the current MCM nor its predecessors provide an explanation for this additional requirement. It was deleted to enhance efficiency in the military justice system.''

b. R.C.M. 804(c). The analysis accompanying R.C.M. 804 is amended by redesignating the current subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection (c):

''(c) Voluntary absence for limited purpose of child testimony.

1999 Amendment: The amendment provides for two-way closed circuit television to transmit a child's testimony from the courtroom to the accused's location. The use of two-way closed circuit television, to some degree, may defeat the purpose of these alternative procedures, which is to avoid trauma to children. In such cases, the judge has discretion

to direct one-way television communication. The use of one-way closed circuit television was approved by the Supreme Court in *Maryland v. Craig,* 497 U.S. 836 (1990). This amendment also gives the accused the election to absent himself from the courtroom to prevent remote testimony. Such a provision gives the accused a greater role in determining how this issue will be resolved.''

c. R.C.M. 914A. Insert the following analysis after the analysis to R.C.M. 914:

''1999 Amendment: This rule allows the military judge to determine what procedure to use when taking testimony under Mil. R. Evid. 611(d)(3). It states that normally such testimony should be taken via a two-way closed circuit television system. The rule further prescribes the procedures to be used if a television system is employed. The use of two-way closed circuit television, to some degree, may defeat the purpose of these alternative procedures, which is to avoid trauma to children. In such cases, the judge has discretion to direct one-way television communication. The use of one-way closed circuit television was approved by the Supreme Court in *Maryland v. Craig*, 497 U.S. 836 (1990). This amendment also gives the accused an election to absent himself from the courtroom to prevent remote testimony. Such a provision gives the accused a greater role in determining how this issue will be resolved.''

d. R.C.M. 1001(b)(4). The analysis to R.C.M. 1001(b)(4) is amended by inserting the following paragraph before the analysis of R.C.M. 1001(b)(5):

''1999 Amendment: R.C.M. 1001(b)(4) was amended by elevating to the Rule language that heretofore appeared in the Discussion to the Rule. The Rule was further amended to recognize that evidence that the offense was a ''hate crime'' may also be presented to the sentencing authority. The additional ''hate crime'' language was derived in part from section 3A1.1 of the Federal Sentencing Guidelines, in which hate crime motivation results in an upward adjustment in the level of the offense for which the defendant is sentenced. Courts-martial sentences are not awarded upon the basis of guidelines, such as the Federal Sentencing Guidelines, but rather upon broad considerations of the needs of the service and the accused and on the premise that each sentence is individually tailored to the offender and offense. The upward adjustment used in the Federal Sentencing Guidelines does not directly translate to the court-martial presentencing procedure. Therefore, in order to adapt this concept to the court-martial process, this amendment was made to recognize that ''hate crime'' motivation is admissible in the court-martial presentencing procedure. This amendment also differs from the Federal Sentencing Guideline in that the amendment does not specify the burden of proof required regarding evidence of ''hate crime'' motivation. No burden of proof is customarily specified regarding aggravating evidence admitted in the presentencing procedure, with the notable exception of aggravating factors under R.C.M. 1004 in capital cases.''

e. R.C.M. 1003(b). The analysis accompanying R.C.M. 1003 is amended by adding the following as the last paragraph of the analysis:

''1999 Amendment: Loss of numbers, lineal position, or seniority has been deleted. Although loss of numbers had the effect of lowering precedence for some purposes, e.g., quarters priority, board and court seniority, and actual date of promotion, loss of numbers did not affect the officer's original position for purposes of consideration for retention or promotion. Accordingly, this punishment was deleted because of its negligible consequences and the misconception that it was a meaningful punishment.''

f. R.C.M. 1004. The analysis to R.C.M. 1004(c)(7) is amended by adding the following as the last paragraph of the analysis:

''1999 Amendment: R.C.M. 1004(c)(7)(K) was added to afford greater protection to victims who are especially vulnerable due to their age.''

2. *Changes to Appendix 22, the Analysis accompanying the Military Rules of Evidence (Part III, MCM).*

a. Mil. R. Evid. 501. The analysis to Mil. R. Evid. 501 is amended—

(1) by striking:

''The privilege expressed in Rule 302 and its conforming Manual change in Para. 121, is not a doctor-patient privilege and is not affected by Rule 501(d).''

(2) by adding at the end:

''1999 Amendment: The privileges expressed in Rule 513 and Rule 302 and the conforming Manual change in R.C.M. 706, are not physician-patient privileges and are not affected by Rule 501(d).''

b. Mil. R. Evid. 513. Insert the following analysis after the analysis of Mil. R. Evid. 512:

''1999 Amendment: Military Rule of Evidence 513 establishes a psychotherapist-patient privilege for investigations or proceedings authorized under the Uniform Code of Military Justice. Rule 513 clarifies military law in light of the Supreme Court decision in *Jaffee v. Redmond*, 518 U.S. 1, 116 S. Ct. 1923, 135 L.Ed.2d 337 (1996). *Jaffee* interpreted Federal Rule of Evidence 501 to create a federal psychotherapist-patient privilege in civil proceedings and refers federal courts to state laws to determine the extent of privileges. In deciding to adopt this privilege for courts-martial, the committee balanced the policy of following federal law and rules, when practicable and not inconsistent with the UCMJ or MCM, with the needs of commanders for knowledge of certain types of information affecting the military. The exceptions to the rule have been developed to address the specialized society of the military and separate concerns that must be met to ensure military readiness and national security. *See Parker v. Levy*, 417 U.S. 733, 743 (1974); *U.S. ex rel. Toth v. Quarles*, 350 U.S. 11, 17 (1955); *Dept. of the Navy v. Egan*, 484 U.S. 518, 530 (1988). There is no intent to apply Rule 513 in any proceeding other than those authorized under the UCMJ. Rule 513 was based in part on proposed Fed. R. Evid. (not adopted) 504 and state rules of evidence.

Rule 513 is not a physician-patient privilege. It is a separate rule based on the social benefit of confidential counseling recognized by *Jaffee*, and similar to the clergy-penitent privilege. In keeping with American military law since its inception, there is still no physician-patient privilege for members of the Armed Forces. See the analyses for Rule 302 and Rule 501.

(a) *General rule of privilege.* The words ''under the UCMJ'' in this rule mean Rule 513 applies only to UCMJ proceedings, and do not limit the availability of such information internally to the services, for appropriate purposes.

(d) *Exceptions.* These exceptions are intended to emphasize that military commanders are to have access to all information that is necessary for the safety and security of military personnel, operations, installations, and equipment. Therefore, psychotherapists are to provide such information despite a claim of privilege.''

c. Mil. R. Evid. 611. The analysis accompanying Rule 611 is amended by adding at the end of the analysis the following:

''1999 Amendment: Rule 611(d) is new. This amendment to Rule 611 gives substantive guidance to military judges regarding the use of alternative examination methods for child victims and witnesses in light of the U.S. Supreme Court's decision in *Maryland v. Craig*, 497 U.S. 836 (1990) and the change in Federal law in 18 U.S.C. section 3509. Although *Maryland v. Craig* dealt with child witnesses who were themselves the victims of abuse, it should be noted that 18 U.S.C. section 3509, as construed by Federal courts, has been applied to allow non-victim child

witnesses to testify remotely. *See, e.g., United States v. Moses*, 137 F.3d 894 (6th Cir. 1998) (applying section 3509 to a non-victim child witness, but reversing a child sexual assault conviction on other grounds) and *United States v. Quintero*, 21 F.3d 885 (9th Cir. 1994) (affirming conviction based on remote testimony of non-victim child witness, but remanding for re-sentencing). This amendment recognizes that child witnesses may be particularly traumatized, even if they are not themselves the direct victims, in cases involving the abuse of other children or domestic violence. This amendment also gives the accused an election to absent himself from the courtroom to prevent remote testimony. Such a provision gives the accused a greater role in determining how this issue will be resolved.''

3. *Changes to Appendix 23, the Analysis accompanying the Punitive Articles (Part IV, MCM).*

The following paragraph is inserted after the analysis of paragraph 100:

''100a. Article 134—(Reckless endangerment)

c. Explanation. This paragraph is new and is based on *United States v. Woods*, 28 M.J. 318 (C.M.A. 1989); see also Md. Ann. Code art. 27, sect. 120. The definitions of ''reckless'' and ''wanton'' have been taken from Article 111 (drunken or reckless driving). The definition of ''likely to produce grievous bodily harm'' has been taken from Article 128 (assault).''

Changes to Forms of Sentences of the Manual for Courts-Martial, United States

a. Paragraph b of Appendix 11, Forms of Sentences, is amended—

(1) by striking the catch phrase ''Loss of Numbers, Etc.''

(2) by striking subparagraph 6;

(3) by striking subparagraph 7;

(5) by striking the last sentence from the Note at the end of Paragraph b.

b. Paragraph b of Appendix 11, Forms of Sentences, is amended by redesignating paragraphs 8, 9, 10, 11, 12, 13, 14, 15, and 16 as paragraphs 6, 7, 8, 9, 10, 11, 12, 13, and 14 respectively.

Changes to the Maximum Punishment Chart of the Manual for Courts-Martial, United States

Appendix 12, the Maximum Punishment Chart, is amended by adding after Art. 134 (Quarantine, breaking) the following:

''Reckless endangerment . . . . BCD 1 yr. Total''

Changes to the Discussion Accompanying the Manual for Courts-Martial, United States

a. The Discussion following R.C.M. 1001(b)(4) is amended by striking the first paragraph.

b. The Discussion to R.C.M. 1003(b) is amended by striking subparagraph (4).

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Billing code 3195–01–P

Rules and Regulations

Federal Register

Vol. 64, No. 196

Tuesday, October 12, 1999

FEDERAL ELECTION COMMISSION

[Notice 1999–19]

11 CFR Part 110

Treatment of Limited Liability Companies Under the Federal Election Campaign Act

AGENCY: Federal Election Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On July 12, 1999, the Commission published the text of revised regulations that address the treatment of limited liability companies for purposes of the Federal Election Campaign Act. 64 FR 37397. The Commission announces that these rules are effective as of November 12, 1999.

EFFECTIVE DATE: November 12, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. N. Bradley Litchfield, Associate General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694–1650 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is announcing the effective date of new regulations at 11 CFR 110.1(g) that addess the treatment of limited liability companies (''LLC'') under the Federal Election Campaign Act. LLCs are non-corporate business entities, created under State law, that have characteristics of both partnerships and corporations. The new rules provide that LLCs will be treated as either partnerships or corporations for FECA purposes, consistent with the tax treatment they select under the Internal Revenue Code.

Section 438(d) of Title 2, United States Code, requires that any rules or regulations prescribed by the Commission to implement Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The revisions to 11 CFR 110.1 were transmitted to Congress on June 25, 1999. Thirty legislative days expired in the Senate and the House of Representatives on September 24, 1999.

Announcement of Effective Date: 11 CFR 110.1(g), as published at 64 FR 37397 (July 12, 1999), is effective as of November 12, 1999.

Dated: October 5, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–26281 Filed 10–8–99; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 910

[No. 99–51]

RIN 3069–AA78

Allocation of Joint and Several Liability on Consolidated Obligations Among the Federal Home Loan Banks

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its rule governing the issuance of consolidated obligations, *i.e.*, bonds, notes or debentures (COs) by the Finance Board pursuant to section 11 of the Federal Home Loan Bank Act (Act), 12 U.S.C. 1431, to establish a framework for the orderly allocation of joint and several liability for the COs among the Federal Home Loan Banks (Banks). The final rule adds new provisions to the Finance Board's regulations and is intended to protect holders of COs to the greatest extent practicable by providing a framework to ensure the continued timely payment of all principal and interest on COs in the unlikely event of the projected or actual inability of a Bank to meet its debt service payment obligations.

DATES: This final rule is effective on November 12, 1999.

FOR FURTHER INFORMATION CONTACT: Joseph A. McKenzie, Deputy Chief Economist, Office of Policy, Research and Analysis, by telephone at (202) 408–2845 or by electronic mail at *mckenziej@fhfb.gov,* or Charlotte A. Reid, Special Counsel, Office of General Counsel, by telephone at (202) 408–2510 or by electronic mail at *reidc@fhfb.gov,* or by regular mail at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. The Proposed Rule

On February 11, 1999, the Finance Board published for comment a proposed rule to amend its Consolidated Bonds and Debentures Regulation (CO Regulation), 12 CFR part 910, to outline a framework for the orderly allocation of joint and several liability among the Banks on COs issued by the Finance Board pursuant to section 11 of the Act, 12 U.S.C. 1431. 64 FR 6819 (Feb. 11, 1999). The sixty-day public comment period closed on April 12, 1999. The Finance Board received thirteen comment letters: twelve from Banks and one from a member institution. The commenters, noting the stability and financial strength of the Bank System, generally supported the goal of the proposed rule, but expressed nearly uniform objection to the certification and reporting requirements and requested other changes.

The Act provides plenary authority to the Finance Board in connection with the issuance of COs, for which the Banks are jointly and severally liable. Section 11 of the Act authorizes the Finance Board to issue rules and regulations governing the issuance of COs. *See* 12 U.S.C. 1431(a). Pursuant to the authority set forth in section 11(b) and (c) of the Act, the Finance Board may issue consolidated Bank debentures or bonds which ''shall be the joint and several obligations of all the Federal Home Loan Banks, and shall be secured and be issued upon such terms and conditions as the [Finance] Board may prescribe.'' *See* id. at 1431(b) and (c). Moreover, section 11(d) of the Act provides that the Finance Board shall have full power to require the Banks to ''deposit additional collateral or to make substitutions of collateral or to adjust equities between the Federal Home Loan Banks.'' Id. at 1431(d). The Act makes clear that COs are not the obligations of and are not guaranteed by the United States. *See* id. at 1435. The Banks collectively are the sole obligors on COs. Finance Board regulations governing the issuance of COs are set forth in 12 CFR parts 910 and 941.

Section 910.0(b) defines ''consolidated bonds'' to mean ''bonds or notes issued on behalf of all Federal Home Loan Banks.'' For purposes of this preamble, the terms CO(s), consolidated obligation(s), and consolidated bonds are used interchangeably. In the final rule, the term consolidated bond(s) is adopted for consistency with the existing definitions in § 910.0.

The Banks finance their operations principally with the proceeds from COs issued by the Finance Board on their behalf. As of July 31, 1999, there were approximately $444.8 billion in COs outstanding. In the history of the Bank System, no Bank has ever been delinquent or defaulted on a principal or interest payment on any CO issued by the Finance Board or the Federal Home Loan Bank Board (FHLBB), its predecessor agency.

Neither the Finance Board nor the FHLBB adopted regulations to establish the manner in which the joint and several liability of the Banks would operate in the event of impending default or delinquency on a CO. The Bank System remains financially healthy and strong, and no such default or delinquency is expected. The holders of COs benefit from the statutory joint and several liability of the Banks set forth in section 11 of the Act. Prudence dictates, however, that the Finance Board clarify how the joint and several financial responsibility for the COs would be allocated among the Banks if a Bank were to experience a payment problem.

The final rule establishes a procedure to assure timely interest and principal payments on all outstanding COs. The final rule will provide that any Bank that participates in the proceeds of a CO issuance, and that experiences or projects a payment problem, would be required to apply its assets first toward the satisfaction of that consolidated obligation. The final rule further specifies, as a regulatory matter, that the Finance Board, pursuant to its authority to ensure that the Banks operate in a safe and sound manner, remain adequately capitalized and able to raise funds in the capital markets, and to adjust the relative equities among the Banks in connection with the issuance of COs, *see* 12 U.S.C. 1422a(a)(1), (3)(A), (3)(B)(iii) and 1431(d), has ultimate authority and discretion at any time to call on any Bank to make any principal or interest payment on any CO. The underlying purpose of the final rule is to emphasize the Finance Board's intent that holders of COs not experience any interruption in the flow of interest or principal payments.

II. Summary of Comments and Analysis of Changes Made in the Final Rule.

A. Definitions—§ 910.0

1. Existing Definitions

The existing definitions in Part 910 are retained with only minor revisions. For purposes of consistency with other regulations, ''Board'' has been redefined as ''Finance Board,'' a definition of ''Bank'' has been added, and the remaining definitions have been re-designated accordingly. Additional definitions are addressed as follows.

2. Participating Bank

The proposed rule would have amended § 910.0 of the CO regulation to add a new defined term: ''Participating Bank.'' The final rule does not adopt that definition because it is not a necessary component of the certification requirement as adopted in the final rule and does not add to the requirement that each Bank must satisfy its direct obligations.

3. Non-Performing Bank

The proposed rule added another defined term to § 910.0: ''Non-performing Bank.'' A majority of the commenters contended that the term ''Non-Performing Bank'' was too broad, had negative or pejorative connotations, or could imply a default on the COs where none had occurred. One commenter suggested the term should be changed to ''Non-Compliant Bank'' to focus on the reporting and certification requirements. The Finance Board agrees that a change in the terminology is appropriate and has revised the term in the final rule to ''Non-complying Bank.'' Also in response to comments, the Finance Board has removed all references to ''net loss'' in the definition and in the revisions to the reporting and certification requirements. *See* discussion of § 910.7(b), below. Furthermore, the definition was revised to clarify that a Bank also may become a ''Non-complying Bank'' if it is required to file a notice pursuant to § 910.7(b)(2).

4. Direct Obligation

The final rule defines ''direct obligation'' to mean a Bank's obligation to repay principal and interest arising from its receipt of all or a portion of the proceeds of an issuance of COs by the Finance Board on behalf of one or more Banks. A direct obligation also includes an obligation to pay CO principal or interest that has been assumed by a Bank subsequent to the issuance of the consolidated bond, and any obligation to make assistance payments to any other Bank, whether pursuant to an agreement between two or more Banks or pursuant to a Finance Board payment order. Additionally, consistent with § 910.7(e)(1), direct obligation also includes the obligation of an assisted Bank to reimburse a Bank that pays the direct obligations of the former Bank pursuant to an assistance agreement or by order of the Finance Board. Thus, a direct obligation may arise: (1) as a result of the receipt of proceeds from the issuance of a CO, or in a subsequent assumption of a CO payment obligation; (2) by virtue of becoming obligated to make assistance payments to another Bank, either pursuant to a voluntary agreement between two or more Banks or pursuant to a Finance Board payment order; or (3) pursuant to the obligation to reimburse an assisting Bank for assistance payments made under an assistance agreement or by order of the Finance Board, including related costs and interest.

5. Other Definitional Requests

In response to several comments, references to consolidated obligations have been changed throughout the final rule to reference consolidated bonds in order to maintain consistency within part 910 and to conform to existing definitions in § 910.0.

Many commenters requested that certain definitions be added to the rule. A majority of commenters requested that the rule define the term ''non-essential expenses'' to exclude normal operating expenses or ordinary operational expenditures incurred in the regular course of business such as salaries and benefits, office space and equipment expenses. The Finance Board has adopted the recommendation by rewording § 910.7(c)(3) of the final rule to clarify that a Bank may continue to pay normal operating expenses, including salaries, costs of office space or equipment, or related expenses, but must refrain from incurring any extraordinary expenses, thus obviating the need for another defined term.

A number of commenters requested that the rule define, by establishing a fixed standard, reasonable interest as it relates to consolidated bond interest and principal payments made on behalf of a non-complying Bank, so as to avoid unnecessary disputes between the assisting and assisted Banks. The commenters who addressed the issue suggested that the standard should be the Federal Funds rate plus an amount, ranging from 50 to 300 basis points, sufficient to be punitive. The Finance Board wishes to preserve for itself maximum discretion to prescribe a reasonable interest rate based on the case presented. Therefore, no definition

of reasonable interest rate is included in the final rule. Instead, § 910.7(d) of the final rule makes it clear that, on amounts paid by one Bank to meet the principal and interest payment obligations of another Bank, the interest rate on the reimbursement will be set by the Finance Board in an order, or will be negotiated between the affected Banks, in the case of an inter-Bank assistance agreement, subject to the approval of the Finance Board.

B. Joint and Several Liability—§ 910.7

The proposed rule added a new § 910.7 to the CO Regulation to establish a framework for the orderly allocation of joint and several liability on the COs among the Banks.

1. General Requirements—§ 910.7(a)

The proposed rule at § 910.7(a) would have stated the joint and several liability of the Banks and the duty of the Banks to give priority to consolidated bond payments.

One commenter objected to the premise of proposed § 910.7(a)(2), that each Bank must ensure the CO payment obligations of all other Banks, and suggested that the final rule provide that each Bank be responsible only for its own payment obligations. Because the Finance Board believes that the essence of joint and several liability is that each Bank is ultimately liable for the repayment of any CO, no change to this provision has been adopted in the final rule, other than the addition of a new subsection (3), which states that the provisions shall not restrict, limit, or otherwise diminish the joint and several liability of all of the Banks on all of the consolidated bonds.

Several commenters questioned how other creditors of the Banks, such as swap counterparties, would be affected by proposed § 910.7(a)(2), and noted that the proposed rule would appear to give CO holders payment priority over other creditors of the Bank, regardless of the legal priorities among those parties. The Finance Board is not attempting to create regulatory creditor priorities that would not already exist under law. Therefore, the final rule has been revised to address this concern by eliminating reference to ''any other creditor not entitled by law or contract to priority over or parity with the holder of consolidated obligations.'' A provision was also added in § 910.7(g) to clarify that payments made by a Bank to satisfy the direct obligations of another Bank shall be made for the sole purpose of discharging the joint and several liability of the Banks on the consolidated bonds, not for the benefit of other creditors.

2. Certification and Reporting—§ 910.7(b)

Section 910.7(b) of the proposed rule would have required each Bank President to certify for the upcoming quarter that the Bank will not suffer a net loss, will remain in compliance with reserve and liquidity requirements, as well as with the Finance Board's Financial Management Policy (FMP), and will be capable of making full and timely payment of all its direct obligations when due. The proposed rule also would have required each Bank immediately to report to the Finance Board any projected loss, debt service deficiency or liquidity/reserves deficiency.

The comments expressed a number of objections to § 910.7(b) as proposed: (1) the impossibility of certification as to future events; (2) misplaced reliance on net loss as an indicator of a Bank's ability to meet its direct obligations; (3) the lack of a specific causal nexus between potential non-compliance with liquidity requirements and a Bank's ability to meet its direct obligations; and (4) each Bank should be required only to certify that it will have the ability in the upcoming quarter to meet its direct obligations.

a. Certification as to Future Events. The commenters stated that it would be impossible to certify as to future events given the potential variables that affect financial statements, and were concerned that forward-looking certifications might subject a Bank to liability if events played out other than as predicted. Commenters also objected to the certification requirement on the basis that a certification, which generally involves confirmation of known facts as of a certain date, would be a factual impossibility because factors beyond the control of a Bank could preclude the Bank from being able to state with certainty three months in advance that no change in circumstances would occur.

One commenter suggested that the lack of certainty as to future projections could be dealt with either by revising the required representation to assert that ''the President has no knowledge of any facts that would materially affect the accuracy of the certification,'' or requiring, based on information known to the Bank, reasonable assurance that the Bank will remain in compliance and be capable of fulfilling CO payments in the upcoming quarter.

Another commenter favored requiring that Bank management provide a negative assurance stating that, as of the date of the quarterly certification, Bank management has no actual knowledge of material facts that through the next quarter could foreseeably prevent the Bank from making full and timely payment of interest and principal on the COs due and payable in the upcoming quarter. To improve on the reporting requirement, the commenter urged that the Banks be allowed to rely on the unqualified opinion provided annually by a Bank's independent certified accountant and eliminate the management certification.

Concerned commenters noted that if certifications are given and subsequent unanticipated events adversely affect the accuracy of the statements or the ability of a Bank to make full and timely direct obligation payments when due, the result could be causes of action against the Bank and the Finance Board for false certifications.

While the Finance Board does not believe that a negative assurance or a reasonable assurance statement would accomplish the same goal as the certification and reporting requirements, the Finance Board does believe that many of the other concerns raised by the commenters have merit. The final rule addresses these concerns by modifying the certification requirement to reflect that the certification should be based on known information, current facts and financial information, which the Finance Board expects will follow reasonable investigation.

b. Net Loss. Many commenters objected to being required to certify that a Bank would not sustain a net loss in the upcoming quarter on the grounds that net loss is an inappropriate measure for determining ability to meet CO payment obligations. Several Bank commenters called for the term to be eliminated from the rule, or defined if the certification and reporting requirements were to be retained in the final rule. One commenter stated that net income and net loss are accounting concepts that bear virtually no relation to cash flow, which is the primary factor affecting a Bank's ability to make payments.

One commenter suggested that the rule should provide that prior to allocating loss to all Banks, the Finance Board should look to the other participating Banks for payment of principal and interest where another participating Bank is unable to make the payments for which it is responsible. Some of the Banks expressed a desire that the reporting periods be specified in the rule.

Several commenters argued that the various periodic financial condition reports already required to be filed by

the Banks with the Finance Board [1] provide sufficient notice to the Finance Board of any potential difficulty a Bank might experience in meeting its debt obligations, and that the certification and reporting requirements would be unnecessarily duplicative and burdensome.

The Finance Board agrees with many of the observations in the comments, and has addressed commenters' objections by eliminating the requirement that each Bank must certify that it will not sustain a net loss in the upcoming quarter.

c. Lack of Causal Nexus Between Liquidity and Ability to Pay Direct Obligations. Many comments focused on what factors actually affect a Bank's ability to meet its obligations and noted that non-compliance with liquidity requirements is not tantamount to an inability to make such payments.

One commenter, calling the liquidity requirements outmoded, stated that compliance with the liquidity requirements is not an accurate reflection of the Bank's ability to meet its payment obligations. The commenter said that factors that would more likely cause a negative impact on a Bank's ability to service its debt would be an inability to access the capital markets to replace maturing or called debt, and that the certification requirement is inconsistent with real world balance sheet management.

The Finance Board does not agree with the comment that compliance with the statutory and regulatory liquidity requirements does not bear any financial relationship to a Bank's ability to meet its direct obligations and has adopted this requirement in the final rule without change. The comment is premised on the assumption that the Banks can raise funds in the capital markets at will. However, since the Banks at times may face inhospitable conditions in the capital markets during which they might be unable to raise large amounts of money in very short time periods, the Finance Board believes it is advisable for the Banks to maintain sufficient, highly liquid assets to meet member demands. Because the Banks are required to maintain compliance with statutory and regulatory liquidity requirements at all times, no additional burden should be imposed by the requirement in the final rule that a Bank certify to that compliance.

d. Certification Only to Direct Obligations. The commenters requested that the proposed rule be clarified to require a Bank to certify only that it will remain capable of making full and timely payment of its share of all principal and interest payments on COs. The Finance Board concurs in these comments and has clarified the final rule to state that each Bank must certify that it will remain capable of making full and timely payment of all of its current obligations, including direct obligations. Direct obligations would also include the obligation to reimburse an assisting Bank for the payment of the assisted Bank's direct obligations, as provided for in § 910.7(e)(1) of the final rule.

e. The Reporting Requirement. The proposed rule called for each Bank to report immediately to the Finance Board if: (1) the Bank was unable to provide the required certification; (2) subsequent to providing the certification, the Bank projected that it would incur a net loss, fail to comply with liquidity requirements or would be unable to satisfy its payment obligations on consolidated bonds; (3) the Bank actually missed a consolidated bond payment, incurred a net loss or failed to comply with liquidity requirements. The commenters offered criticisms nearly identical to those for the certification requirement. Additionally, some commenters recommended that the rule specify the reporting period.

In response to the comments, the final rule eliminates the requirement to file a report in favor of a notice requirement. Section 910.7(b)(2) of the final rule requires a Bank to submit immediate written notice to the Finance Board if the Bank is or is expected to be unable to provide the certification when due as required by § 910.7(b)(1), or, if at any time, a Bank projects that it will not meet its liquidity requirements, direct obligations or other current obligations. Notice is also required if the Bank actually fails to meet its liquidity requirements or direct obligations. Such notice also is required if a Bank is in negotiations to enter or enters into an assistance agreement with another Bank for the payment of its direct obligations or other current obligations. Similarly, if a Bank experiences a temporary interruption in its payment operations due to an external event, which is not necessarily related to the financial condition of the Bank such as a natural disaster or power failure, the Bank must notify the Finance Board. A notice required by § 910.7(b)(2) may be provided by a senior officer of the Bank having knowledge of its financial condition and authorized by the Bank to sign the notice.

Finally, § 910.7(b)(3) of the proposed rule provided that the Finance Board could require a Bank to file a report, accompanied by a consolidated obligation payment plan, if the Finance Board had reason to believe the Bank was about to default on an obligation or cease to be compliance with the statutory or regulatory liquidity requirements. This provision has not been adopted as part of the final rule because the Finance Board believes it would be redundant in light of the revisions to the certification, notice and payment plan provisions.

3. Consolidated Obligation Payment Plan—§ 910.7(c)

Proposed § 910.7(c) would have required any Bank projecting or experiencing an inability to service its current COs to submit a consolidated obligation payment plan to the Finance Board and to refrain from incurring non-essential operating expenses, declaring or paying dividends, or redeeming any stock, until its CO payment plan is approved by the Finance Board and its consolidated obligation payment obligations were satisfied.

One commenter recommended that § 910.7(c) be modified to require only that the plan address the methods a Bank would undertake ''to make full and timely payment *of its share* of all principal and interest consolidated obligation payments in which the [Federal Home Loan] Bank is a participating Bank.'' The final rule clarifies that a Bank must file a consolidated bond payment plan outlining the methods to be used to meet its current obligations, including direct obligations. The comment that the payment of non-essential expenses should contain an exception for ''ordinary operational expenditures incurred by a Bank in its regular course of business,'' has also been adopted in § 910.7(c)(3) of the final rule.

One commenter proposed that the final rule should make provision for the Finance Board to accept or request modifications on a consolidated bond payment plan within a certain timeframe, and for automatic approval of the payment plan if the Finance Board fails to act by a date certain. Another commenter opposed the restrictions set forth in proposed § 910.7(c)(3) on payment of dividends or redemption of stock as being draconian. The commenter argued that the Finance Board should impose such sanctions only after it has reviewed the specific situation. The final rule is designed to allow the Finance Board to analyze any proffered payment plan independently and in the circumstances presented. A

[1] *See, e.g.*, 12 CFR 934.7 (balance sheets and income statement projects); 12 CFR 934.17 (support for dividend requests); 12 CFR 937.2 (information for Bank System quarterly and annual reports).

fixed timeframe for automatic approval would not further the purpose of the rule which is to afford the Finance Board a rational regulatory process for the necessary deliberation of all relevant factors. Additionally, the restrictions as to payment of dividend or stock redemption are intended to preserve assets that may be needed to ensure that the Bank will be able to continue to operate and make full and timely CO payments. For these reasons, this provision of the final rule has been adopted as proposed.

Other commenters urged the Finance Board to build flexibility into the rule to allow Banks to develop recovery plans or participate in fully-secured inter-Bank loans that would provide for orderly recovery short of liquidation, depending on the severity of the Bank's financial condition. The Finance Board has adopted certain modifications to the rule and believes that as revised the final rule provides sufficient flexibility in how the consolidated bond payment plans would be structured, and makes sufficient provision for payment assistance agreements to be reached between Banks. Inter-Bank consolidated bond payment assistance agreements are subject to Finance Board approval. Under the final rule, a Bank must notify the Finance Board when it commences negotiations for such an assistance agreement with one or more other Banks, and may not implement an assistance agreement prior to Finance Board approval. Thus, the final rule clearly affords oversight authority to the Finance Board to evaluate any given situation individually and determine what remedial steps are appropriate or required.

The final rule requires a Bank to file a consolidated bond payment plan for Finance Board approval if the Bank fails to provide the certification required in paragraph (b)(1), is required to provide the notice required in paragraph (b)(2), or if the Finance Board determines that the Bank will cease to be in compliance with the liquidity requirements or will be unable to meet its current obligations, including its direct obligations. The final rule requires that the consolidated bond payment plan specify the measures the Bank will undertake to meet its current obligations, including its direct obligations. The final rule permits a non-complying Bank to continue to incur and pay normal operating expenses in the regular course of business, but requires such a Bank to refrain from incurring any extraordinary expenses, declaring or paying dividends or redeeming capital stock until the Finance Board has approved the plan and the Bank's direct obligations have been met.

The Finance Board would have authority under the final rule to take into consideration any capital requirements mandated by statute or regulation, and make provision for the Banks to redeem capital and pay dividends in accordance with the applicable provisions of the Act. The Finance Board may waive or amend the consolidated bond payment plan requirements as necessary to accommodate future legislative changes to the capital structure of the Bank System. A separate, specific reservation of authority to do so is unnecessary.

4. Finance Board Payment Orders—§ 910.7(d)

Under proposed § 910.7(d), in the remote event that a Bank would be unable, due to actual or projected cash flow or balance sheet deficiencies, to service its direct obligations, the Finance Board could have ordered one or more other Banks to make such payments. The non-complying Bank would have been liable to the assisting Banks for reimbursement. The Finance Board would look to the assets of the non-complying Bank for reimbursement of such payments.

Section 910.7(d)(1) of the final rule makes clear that the Board of Directors of the Finance Board, in its discretion and notwithstanding any other provision in the rule, may at any time order any Bank to make any payment on any consolidated bond. The final rule in § 910.7(d)(2) establishes unequivocally that to the extent a Bank makes an assistance payment, whether by agreement or by order of the Board of Directors of the Finance Board, the assisting Bank is entitled to reimbursement of the assistance, including costs and interest. The rate of interest for the reimbursement for payments made to assist a non-complying Bank in making its payment obligations will be set by the Board. Additionally, the final rule clarifies that where an agreement is reached between an assisting Bank and a non-complying Bank (or one whose payment capabilities were temporarily impaired by payment system disruptions outside the control of the Bank) the negotiated rate will be subject to the approval of the Finance Board. As discussed previously herein, the Finance Board disagrees with the recommendations from commenters that the rate of interest on reimbursement payments should be set in the regulation at the Federal Funds rate plus 50 to 300 basis points or at an amount high enough to reflect the serious nature of a potential default and act as a deterrent. In the Finance Board's view, the interest rate is a necessary business component to compensate the assisting Bank for its expenses and assistance. The Finance Board has chosen to reserve to itself the authority to set a reasonable interest rate or to approve the terms, including an interest rate, of negotiated assistance agreements.

5. Adjustment of Equities—§ 910.7(e)

Under proposed § 910.7(e), the reallocation of the payment obligations among the other Banks would have been based on the pro rata participation of each Bank in all COs outstanding as of the most recent month end for which the Finance Board has data. The reallocation (as opposed to payments that may be ordered by the Finance Board) would have occurred only after the non-complying Bank had applied all of its assets to service all of its direct consolidated obligations.

Several commenters expressed concern that the requirement in proposed § 910.7(e)(1), that a defaulting Bank shall apply its assets to fulfill its consolidated obligations payment obligations, could require a Bank to sell assets classified as ''held to maturity'' under ACCOUNTING FOR CERTAIN INVESTMENTS IN DEBT AND EQUITY SECURITIES, Statement of Financial Accounting Standards No. 115 (Fin. Accounting Standards Bd. 1993) and thereby require the Bank to mark-to-market its entire portfolio and further worsen the Bank's financial position.

One commenter asked for clarification of whether all of a Bank's assets would have to be applied to the payment of COs before such assets could be used to pay expenses as provided in proposed §§ 910.7(a)(2) and (c). Another commenter suggested that the solution to that interpretation would be to construe the phrase ''apply its assets'' to mean that a Bank may be required to apply interest earned on its assets, and any cash received upon maturity of assets to payment of consolidated obligations, after payment of all necessary expenses, then there should be minimal adverse ramifications to the Banks.

The final rule clarifies that a non-complying Bank shall apply all of its assets to pay its direct obligations, including amounts owed to reimburse any Bank that has provided assistance in meeting the non-complying Bank's direct obligations, whether under an assistance agreement or by order of the Finance Board.

A Bank that provides assistance to another Bank whose operations temporarily are impaired by a natural

disaster or power failure will have a similar right to reimbursement. Finally, § 910.7(e)(3) provides that where the Finance Board determines that a Bank is a non-complying Bank, then the Finance Board may allocate the non-complying Bank's outstanding direct obligation liability among the remaining Banks on a pro rata basis in proportion to each Bank's participation in all COs as of the end of the most recent month for which the Finance Board has data. In § 910.7(e)(1) of the final rule, a non-complying Bank is presumed to have insufficient assets to continue to operate as usual and make full and timely CO payments. The finding of asset insufficiency in paragraph (e) differs from the situation contemplated by § 910.7(c)(3) of the final rule. In the latter section, the final rule assumes that the non-complying Bank will continue to operate as usual, albeit under the terms of a payment plan approved by the Finance Board. A non-complying Bank is thus expressly authorized to continue to incur and pay ordinary operating expenses.

The final rule thus contemplates that the Finance Board will have to intervene to ensure that a non-complying Bank's CO payments are fully and timely made and that its assets are appropriately applied to outstanding consolidated bond obligations and other obligations as provided in the final rule. The Act specifically provides the authority for the Finance Board to do so, *see* 12 U.S.C. 1431(d), and the final rule provides a regulatory framework for the Finance Board to evaluate the overall situation and implement a rational payment solution. Section 910.7(f) of the final rule expressly reserves to the Finance Board the authority to adjust the equities of the Banks in a manner different from the manner scripted in § 910.7(e) to ensure the safety and soundness of one or more of the Banks.

Several commenters suggested that the final rule permit inter-Bank loans to assist in meeting payment obligations, upon terms and conditions negotiated between the Banks, which would obviate the need for the Finance Board to order a Bank to cover the CO payments of another Bank. Another commenter argued in favor of a system providing for the resources of all co-participating Banks to be tapped before the assets of a non-participating Bank are applied to cover the liability of a Bank. The Finance Board believes this could create disincentives for the Banks to enter into CO issuances as co-participants and has not incorporated this comment into the final rule. In addition, the final rule provides for inter-Bank loans and will require that the assisted Bank file notice pursuant to § 910.7(b) and thus trigger the provisions for CO payment plans and Finance Board review.

6. Reservation of Rights—§ 910.7(f)

Under proposed § 910.7(f), the Finance Board reserved its authority to take supervisory, enforcement or other action against any Bank pursuant to the Act to ensure that the Banks are operated in a safe and sound manner. The final rule adopts this and expressly preserves the Finance Board's authority to adjust the equities between the Banks in any manner different from that set forth in this rule.

7. No Rights Created—§ 910.7(g)

Several commenters suggested that the proposed rule be revised expressly to provide that the certification and reporting requirements of the rule do not create any rights in any third party and that non-compliance with the provisions of the rule would not constitute a default under the COs. The Finance Board has adopted this suggestion by including a new § 910.7(g) in the final rule. The final rule provides that nothing in the section shall be deemed to create any rights in any third party, payments made by a Bank on the direct obligations of another Bank are made solely to discharge the joint and several obligation of the Banks on the consolidated bonds, and complying with or failing to comply with the provisions of this section shall not be deemed to be an event of default under any consolidated bond.

III. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that this final rule will not have significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 350, *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 910

Consolidated bonds and debentures, Banks, Securities.

For the reasons stated in the preamble, the Finance Board amends 12 CFR part 910 as follows:

PART 910—CONSOLIDATED BONDS AND DEBENTURES

1. Revise the authority citation for part 910 to read as follows:

Authority: 12 U.S.C. 1422a, 1422b and 1431.

2. Amend § 910.0 by:

A. Revising paragraph (a).

B. Redesignating paragraphs (b) through (d) as paragraphs (c) through (e), respectively.

C. Adding a new paragraph (b).

D. Revising newly designated paragraph (c).

E. Adding paragraphs (f) and (g).

The additions and revisions read as follows:

§ 910.0 Definitions.

(a) *Finance Board* means the Federal Housing Finance Board.

(b) *Bank* means Federal Home Loan Bank.

(c) *Consolidated bond* means any bond or note issued on behalf of one or more Banks by the Finance Board pursuant to section 11(c) of the Federal Home Loan Bank Act, as amended (the Act) (12 U.S.C. 1431(c)).

* * * * *

(f) *Direct Obligation* means an obligation of a Bank to make any principal or interest payment due on a consolidated bond, whether such obligation arises from:

(1) The Bank's receipt of sale proceeds from the issuance of that consolidated bond or the assumption of the obligation in a voluntary transaction subsequent to the issuance of the bond;

(2) An obligation to make an assistance payment to any other Bank, whether made pursuant to an agreement between one or more Banks or pursuant to a Finance Board payment order; or

(3) An assistance payment reimbursement obligation.

(g) *Non-complying Bank* means any Bank that fails to certify, pursuant to § 910.7(b)(1) of this part, that it is able to pay all of its current obligations, including direct obligations, in full when due; that fails to make consolidated bond payments in full when due; that is required to file a notice pursuant to § 910.7(b)(2) or a consolidated bond payment plan pursuant to § 910.7(c); or that is determined by the Finance Board to require assistance in meeting its direct obligations on consolidated bonds.

3. Add § 910.7 to read as follows:

§ 910.7 Joint and several liability

(a) *In general.* (1) Each and every Bank, individually and collectively, has an obligation to make full and timely payment of all principal and interest on consolidated bonds when due.

(2) Each and every Bank, individually and collectively, shall ensure that the timely payment of principal and interest on all consolidated bonds is given priority over, and is paid in full in advance of, any payment to or redemption of shares from any shareholder.

(3) The provisions of this section shall not limit, restrict or otherwise diminish, in any manner, the joint and several liability of all of the Banks on all of the consolidated bonds issued by the Finance Board pursuant to section 11(c) of the Act.

(b) *Certification and reporting.* (1) Before the end of each calendar quarter, and before declaring or paying any dividend for that quarter, the President of each Bank shall certify in writing to the Finance Board that, based on known current facts and financial information, the Bank will remain in compliance with the liquidity requirements set forth in section 11(g) of the Act (12 U.S.C. 1431(g)), and the Finance Board's Financial Management Policy (as the same may be amended, modified or replaced), and will remain capable of making full and timely payment of all of its current obligations, including direct obligations, coming due during the next quarter.

(2) A Bank shall immediately provide written notice to the Finance Board if at any time:

(i) The Bank is unable to provide the certification required in paragraph (b)(1) of this section;

(ii) The Bank projects at any time that it will fail to comply with statutory or regulatory liquidity requirements, or will be unable to timely and fully meet all of its current obligations, including direct obligations, due during the quarter;

(iii) The Bank actually fails to comply with statutory or regulatory liquidity requirements or to timely and fully meet all of its current obligations, including direct obligations, due during the quarter; or

(iv) The Bank negotiates to enter or enters into an agreement with one or more other Banks to obtain financial assistance from such Bank(s) to meet its current obligations, including direct obligations, due during the quarter; the notice of which shall be accompanied by a copy of the agreement, which shall be subject to the approval of the Finance Board.

(c) *Consolidated bond payment plans.* (1) A Bank promptly shall file a consolidated bond payment plan for Finance Board approval:

(i) If it becomes a non-complying Bank as a result of failing to provide the certification required in paragraph (b)(1) of this section;

(ii) If it becomes a non-complying Bank as a result of being required to provide the notice required pursuant to paragraph (b)(2) of this section, except in the event that a failure to make a principal or interest payment on a consolidated bond when due was caused solely by a temporary interruption in the Bank's debt servicing operations resulting from an external event such as a natural disaster or a power failure; or

(iii) If the Finance Board determines that a Bank will cease to be in compliance with the statutory or regulatory liquidity requirements, or will lack the capacity to timely and fully meet all of its current obligations, including direct obligations, due during the quarter.

(2) A consolidated bond payment plan shall specify the measures the non-complying Bank will undertake to make full and timely payments of all of its current obligations, including direct obligations, due during the applicable quarter.

(3) A non-complying Bank may continue to incur and pay normal operating expenses incurred in the regular course of business (including salaries, benefits, or costs of office space, equipment and related expenses), but shall not incur or pay any extraordinary expenses, or declare, or pay dividends, or redeem any capital stock, until such time as the Finance Board has approved the Bank's consolidated bond payment plan or inter-Bank assistance agreement, or ordered another remedy, and all of the non-complying Bank's direct obligations have been paid.

(d) *Finance Board Payment Orders; Obligation to Reimburse.* (1) The Board of Directors of the Finance Board, in its discretion and notwithstanding any other provision in this section, may at any time order any Bank to make any principal or interest payment due on any consolidated obligation.

(2) To the extent that a Bank makes any payment on any consolidated obligation on behalf of another Bank, the paying Bank shall be entitled to reimbursement from the non-complying Bank, which shall have a corresponding obligation to reimburse the Bank providing assistance, to the extent of such payment and other associated costs (including interest to be determined by the Finance Board).

(e) *Adjustment of equities.* (1) Any non-complying Bank shall apply its assets to fulfill its direct obligations.

(2) If a Bank is required to meet, or otherwise meets, the direct obligations of another Bank due to a temporary interruption in the latter Bank's debt servicing operations (*e.g.*, in the event of a natural disaster or power failure), the assisting Bank shall have the same right to reimbursement as set forth in paragraph (e)(1) of this section.

(3) If the Finance Board determines that the assets of a non-complying Bank are insufficient to satisfy all of its direct obligations as set forth in paragraph (e)(1) of this section, then the Finance Board may allocate the outstanding liability among the remaining Banks on a pro rata basis in proportion to each Bank's participation in all consolidated obligations outstanding as of the end of the most recent month for which the Finance Board has data.

(f) *Reservation of authority.* Nothing in this section shall affect the Finance Board's authority to adjust the equities between the Banks in any manner different than the manner described in this section, or to take such enforcement or other action against any Bank pursuant to the Finance Board's authority under the Act or otherwise to supervise the Banks and ensure that they are operated in a safe and sound manner.

(g) *No rights created.* (1) Nothing in this section shall create or be deemed to create any rights in any third party.

(2) Payments made by a Bank toward the direct obligations of another Bank are made for the sole purpose of discharging the joint and several liability of the Banks on the consolidated bonds.

(3) Compliance, or the failure to comply, with any provision in this section shall not be deemed a default under the terms and conditions of the consolidated bonds.

Dated: October 4, 1999.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 99–26283 Filed 10–8–99; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–40]

Amendment to Class E Airspace; Nevada, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATES: The direct final rule published at 64 FR 47386 is effective on 0901 UTC, November 4, 1999.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 31, 1999 (64 FR 47386). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on November 4, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 28, 1999.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–26533 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29786; Amdt. No. 1954]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

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

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

The Rule

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

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

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

Conclusion

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 1, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

* * **Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
08/30/99	CA	Ramona	Ramona	FDC 9/6551	VOR/DME or GPS–A Amdt 1B... This Corrects 9/6551 Published in TL 99–21
09/13/99	ID	Boise	Boise Air Terminal/Gowen Field	FDC 9/7166	GPS Rwy 28L, Amdt 1...
09/13/99	ID	Boise	Boise Air Terminal/Gowen Field	FDC 9/7175	VOR/DME or Tacan Rwy 28L, Amdt 1A...
09/13/99	ID	Boise	Boise Air Terminal/Gowen Field	FDC 9/7177	HI ILS Rwy 10R, Amdt 2...
09/15/99	NC	Greenville	Pitt-Greenville	FDC 9/7215	NDB Rwy 19, Amdt 14C...
09/15/99	NC	Greenville	Pitt-Greenville	FDC 9/7216	ILS Rwy 19, Amdt 2D...
09/16/99	CO	Colorado Springs	City of Colorado Springs Muni	FDC 9/7244	ILS/DME Rwy 17L Orig-B...
09/16/99	KS	Olathe	New Century Aircenter	FDC 9/7251	NDB or GPS Rwy 35, Amdt 4B...
09/16/99	VA	Danville	Danville Regional	FDC 9/7261	GPS Rwy 20, Orig...
09/17/99	AZ	Flagstaff	Flagstaff Pulliam	FDC 9/7294	ILS/DME Rwy 21 Orig-A...
09/17/99	IA	Cresco	Ellen Church Field	FDC 9/7292	GPS Rwy 15, Orig...
09/21/99	AR	Rogers	Rogers Muni-Carter Field	FDC 9/7418	ILS Rwy 19, Amdt 2...
09/21/99	AR	Walnut Ridge	Walnut Ridge Regional	FDC 9/7417	LOC Rwy 17, Amdt 2B...
09/21/99	AZ	Casa Grande	Casa Grande Muni	FDC 9/7404	VOR Rwy 5 Amdt 4...
09/21/99	AZ	Casa Grande	Casa Grande Muni	FDC 9/7406	ILS/DME Rwy 5 Amdt 6...
09/21/99	AZ	Phoenix	Phoenix-Deer Valley Muni	FDC 9/7400	GPS Rwy 7R Orig-A...

[FR Doc. 99–26536 Filed 10–8–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29785; Amdt. No. 1953]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchases—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike

Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125). Telephone:(405) 954–4161.

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

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

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on October 1, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective 4 November 1999*

Grand Junction, CO, Walker Field, LDA/DME RWY 29 Orig
Smith Center, KS, Smith Center Muni, VOR/DME OR GPS–A, Amdt 2
Smith Center, KS, Smith Center Muni, GPS RWY 17, Orig
Smith Center, KS, Smith Center Muni, GPS RWY 35, Orig
Portland, OR, Portland Intl, ILS RWY 28L, Orig
Millington, TN, Charles W. Baker, VOR/DME RWY 18, Amdt 1

** * * Effective 2 December 1999*

Pompano Beach, FL, Pompano Beach Airpark, GPS RWY 15, Orig
Olney, TX, Olney Muni, NDB OR GPS RWY 17, AMDT 3, Cancelled
Olney, TX, Olney Muni, GPS RWY 17, Orig

** * * Effective 30 December 1999*

Mojave, CA, Mojave, GPS RWY 4, Orig
Mojave, CA, Mojave, GPS RWY 22, Orig
Jacksonville, FL, Craig Muni, RADAR 1, Amdt 1
Lake City, FL, Lake City Muni, VOR/DME OR GPS–A, Amdt 3, Cancelled
Tampa, FL, Tampa Intl, VOR RWY 9, Amdt 8
Tampa, FL, Tampa Intl, LOC RWY 36R, Amdt 1
Tampa, FL, Tampa Intl, RADAR–1, Amdt 12
Forest City, IA, Forest City Muni, NDB RWY 33, Amdt 1
Forest City, IA, Forest City Muni, VOR/DME RNAV OR GPS RWY 33, Orig-A, Cancelled
Forest City, IA, Forest City Muni, GPS RWY 33, Orig
Jefferson, IA, Jefferson Muni, NDB RWY 32, Amdt 5
Jefferson, IA, Jefferson Muni, GPS RWY 14, Orig
Jefferson, IA, Jefferson Muni, GPS RWY 32, Orig
Clarksdale, MS, Fletcher Field, VOR/DME RWY 18, Orig
Middletown, NY, Randall, GPS RWY 8, Orig
Middletown, NY, Randall, GPS RWY 26, Orig
Lovington, NM, Lea County-Zip Franklin Memorial, GPS RWY 3, Amdt 1
Lovington, NM, Lea County-Zip Franklin Memorial, GPS RWY 21, Amdt 1
Lovington, NM, Lea County-Zip Franklin Memorial, VOR/DME RNAV RWY 3, Orig, Cancelled
Louisburg, NC, Franklin County, VOR/DME OR GPS–A, Amdt 1
Louisburg, NC, Franklin County, GPS RWY 4, Amdt 1
Elk City, OK, Elk City Muni, GPS RWY 17, Orig
Elk City, OK, Elk City Muni, GPS RWY 35, Orig
Greenville, SC, Greenville Downtown, NDB OR GPS RWY 1, Amdt 21
Greenville, SC, Greenvill Downtown, ILS RWY 1, Amdt 28
Greenville, SC, Greenville Downtown, RADAR–1, Amdt 13
Millington, TN, Charles W. Baker, GPS RWY 36, Orig
Angleton/Lake Jackson, TX, Brazoria County, GPS RWY 17, Orig

Salt Lake City, UT, Salt Lake City Intl, GPS RWY 16L, Orig
Salt Lake City, UT, Salt Lake City Intl, GPS RWY 17, Orig
Salt Lake City, UT, Salt Lake City Intl, VORDME OR TACAN RWY 16L, Amdt 1
Salt Lake City, UT, Salt Lake City Intl, VOR/DME OR TACAN RWY 17, Amdt 1

The FAA published an Amendment in Docket No. 29708, Amdt No. 1948 to Part 97 of the Federal Aviation Regulations (Vol 64 No. 168 Page 47389; dated August 31, 1999) under section 97.33 effective November 4, 1999, which is hereby amended as follows:

Greenville, NC, Pitt-Greenville, GPS RWY 1, Orig, should read Greenville, NC, Pitt-Greenville, GPS RWY 2, Orig.
Greenville, NC, Pitt-Greenville, GPS RWY 19, Orig. should read Greenville, NC, Pitt-Greenville, GPS RWY 20, Orig.

The FAA published an Amendment in Docket No. 29733, Amdt No. 1946 to Part 97 of the Federal Aviation Regulations (Vol 64 No. 176 Page 47378; dated September 13, 1999) under section 97.27 and 97.33 is hereby amended by changing the effective date from November 4, 1999, to December 30, 1999, for the following procedures:

Bryan, OH, Williams County, GPS RWY 7, Orig
Bryan, OH, Williams County, GPS RWY 25, Orig
Bryan, OH, Williams County, NDB–A, Amdt 6

[FR Doc. 99–26535 Filed 10–8–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29787; Amdt. No. 1955]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

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

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

The Rule

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

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 1, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

** * * Effective November 4, 1999*

Aniak, AK, Aniak, NDB or GPS–A, Orig, Cancelled
Aniak, AK, Aniak, NDB–A, Orig
Cordova, AK, Cordova/Merle K (Mudhole) Smith, NDB or GPS–A, Orig, Cancelled
Cordova, AK, Cordova/Merle K (Mudhole) Smith, NDB–A, Orig
McGrath, AK, McGrath, VOR or GPS–A, Amdt 7, Cancelled
McGrath, AK, McGrath, VOR–A, Amdt 7
McGrath, AK, McGrath, VOR/DME or GPS–C, Orig, Cancelled
McGrath, AK, McGrath, VOR/DME–C, Orig
Mekoryuk, AK, Mekoryuk, NDB/DME or GPS–A, Amdt 3, Cancelled
Mekoryuk, AK, Mekoryuk, NDB/DME–A, Amdt 3
Middleton Is., AK, Middleton Is., NDB or GPS–A, Orign, Cancelled
Middleton Is., AK, Middleton Is., NDB–A, Orig
Northway, AK, Northway, VOR or GPS–B, Amdt 3, Cancelled
Northway, AK, Northway, VOR–B, Amdt 3
Sand Point, AK, Sand Point, NDB or GPS RWY 13, Orig, Cancelled
Sand Point, AK, Sand Point, NDB RWY 13, Orig
Sand Point, AK, Sand Point, NDB/DME or GPS–A, Amdt 4, Cancelled
Sand Point, AK, Sand Point, NDB/DME–A, Amdt 4
Sitka, AK, Sitka Rocky Gutierrez, VOR or GPS–C, Orig, Cancelled
Sitka, AK, Sitka Rocky Gutierrez, VOR–C, Orig
Soldotna, AK, Soldotna, VOR or GPS–A, Amdt 6, Cancelled
Soldotna, AK, Soldotna, VOR–A, Amdt 6
Unalakleet, AK, Unalakleet, VOR/DME or GPS–D, Amdt 3, Cancelled
Unalakleet, AK, Unalakleet, VOR/DME–D, Amdt 3
Almyra, AR, Almyra Muni, VOR/DME or GPS–A, Amdt 4B, Cancelled
Almyra, AR, Almyra Muni, VOR/DME–A, Amdt 4B
Brinkley, AR, Brinkley/Frank Federer Memorial, NDB or GPS–A, Amdt 1A, Cancelled
Brinkley, AR, Brinkley/Frank Federer Memorial, NDB–A, Amdt 1A
Conway, AR, Conway/Dennis F. Cantrell Field, NDB or GPS–A, Amdt 1, Cancelled
Conway, AR, Conway/Dennis F. Cantrell Field, NDB–A, Amdt 1
Crossett, AR, Crossett/ZM Jack Stell Field, VOR/DME or GPS–A, Orig–B, Cancelled
Crossett, AR, Crossett/ZM Jack Stell Field, VOR/DME–A, Orig–B
Harrison, AR, Harrison/Boone County, VOR or GPS–A, Amdt 12A, Cancelled
Harrison, AR, Harrison/Boone County, VOR–A, Amdt 12A
Little Rock, AR, Little Rock/Adams Field, VOR or GPS–A, Orig, Cancelled
Little Rock, AR, Little Rock/Adams Field, VOR–A, Orig
Mena, AR, Mena International Muni, VOR/DME or GPS–A, Amdt 9, Cancelled
Mena, AR, Mena International Muni, VOR/DME–A, Amdt 9
Russellville, AR, Russellville Regional, NDB or GPS–A, Amdt 4A, Cancelled
Russellville, AR, Russellville Regional, NDB–A, Amdt 4A
Walnut Ridge, AR, Walnut Ridge Regional, VOR/DME or GPS RWY 22, Amdt 12A, Cancelled
Walnut Ridge, AR, Walnut Ridge Regional, VOR/DME RWY 22, Amdt 12A
Warren, AR, Warren Muni, VOR/DME or GPS–A, Amdt 4A, Cancelled
Warren, AR, Warren Muni, VOR/DME–A, Amdt 4A
Arcata-Eureka, CA, Arcata, VOR or GPS RWY 14, Amdt 7, Cancelled
Arcata-Eureka, CA, Arcata, VOR RWY 14, Amdt 7
Arcata-Eureka, CA, Arcata, VOR/DME or GPS RWY 2, Amdt 7, Cancelled
Arcata-Eureka, CA, Arcata, VOR/DME RWY 2, Amdt 7
Red Bluff, CA, Red Bluff Muni, VOR/DME or GPS RWY 15, Amdt 6, Cancelled
Red Bluff, CA, Red Bluff Muni, VOR/DME RWY 15, Amdt 6
Red Bluff, CA, Red Bluff Muni, VOR or GPS RWY 33, Amdt 7, Cancelled
Red Bluff, CA, Red Bluff Muni, VOR RWY 33, Amdt 7
Akron, CO, Akron-Washington County, VOR or GPS RWY 29, Orig, Cancelled
Akron, CO, Akron-Washington County, VOR RWY 29, Orig
Punta Gorda, FL, Charlotte County, VOR or GPS RWY 3, Orig–A, Cancelled
Punta Gorda, FL, Charlotte County, VOR RWY 3, Orig–A
Punta Gorda, FL, Charlotte County, VOR or GPS RWY 21, Amdt 3A, Cancelled
Punta Gorda, FL, Charlotte County, VOR RWY 21, Amdt 3A
Logansport, IN, Logansport Muni, NDB or GPS RWY 9, Amdt 2, Cancelled
Logansport, IN, Logansport Muni, NDB RWY 9, Amdt 2
Frederick, MD, Frederick, Muni, VOR or GPS–A, Amdt 1, Cancelled
Frederick, MD, Frederick, Muni, VOR–A, Amdt 1
Palmer, MA, Palmer/Metropolitan, NDB or GPS RWY 4, Orig, Cancelled
Palmer, MA, Palmer/Metropolitan, NDB RWY 4, Orig
Augusta, ME, Augusta State, VOR or GPS RWY 35, Amdt 5, Cancelled
Augusta, ME, Augusta State, VOR RWY 35, Amdt 5
Perryville, MO, Perryville Muni, VOR/DME RNAV or GPS RWY 20, Amdt 3, Cancelled
Perryville, MO, Perryville Muni, VOR/DME RNAV RWY 20, Amdt 3
Ardmore, OK, Ardmore Downtown Executive, VOR or GPS–A, Amdt 13, Cancelled
Ardmore, OK, Ardmore Downtown Executive, VOR–A, Amdt 13
Guthrie, OK, Guthrie Muni, NDB or GPS RWY 16, Amdt 5, Cancelled
Guthrie, OK, Guthrie Muni, NDB RWY 16, Amdt 5
McAlester, OK, McAlester Regional, VOR or GPS–A, Amdt 12, Cancelled
McAlester, OK, McAlester Regional, VOR–A, Amdt 12
McAlester, OK, McAlester Regional, NDB or GPS RWY 1, Amdt 2, Cancelled
McAlester, OK, McAlester Regional, NDB or GPS RWY 1, Amdt 2
McAlester, OK, McAlester Regional, VOR/DME or GPS RWY 19, Amdt 1A, Cancelled
McAlester, OK, McAlester Regional, VOR/DME RWY 19, Amdt 1A
Oklahoma City, OK, Wiley Post, VOR or GPS RWY 17L, Amdt 11, Cancelled
Oklahoma City, OK, Wiley Post, VOR RWY 17L, Amdt 11
Oklahoma City, OK, Wiley Post, VOR or GPS RWY 35R, Amdt 2, Cancelled
Oklahoma City, OK, Wiley Post, VOR RWY 35R, Amdt 2
Columbia–Mt. Pleasant, TN, Columbia/Maury County, NDB or GPS RWY 24, Amdt 3C, Cancelled
Columbia–Mt. Pleasant, TN, Columbia/Maury County, NDB RWY 24, Amdt 3C
Portland, TN, Portland Muni, VOR/DME or GPS RWY 19, Amdt 3, Cancelled
Portland, TN, Portland Muni, VOR/DME RWY 19, Amdt 3

El Paso, TX, El Paso Intl, NDB or GPS RWY 22, Amdt 28A, Cancelled
El Paso, TX, El Paso Intl, NDB GPS RWY 22, Amdt 28A
El Paso, TX, El Paso Intl, VOR or GPS RWY 26L, Amdt 29B, Cancelled
El Paso, TX, El Paso Intl, VOR or GPS RWY 26L, Amdt 29B
Cable, WI, Cable Union, VOR/DME RNAV or GPS RWY 34, Amdt 4, Cancelled
Cable, WI, Cable Union, VOR/DME RNAV RWY 34, Amdt 4
Hayward, WI, Hayward/Sawyer County, VOR/DME or GPS RWY 2, Amdt 1, Cancelled
Hayward, WI, Hayward/Sawyer County, VOR/DME RWY 2, Amdt 1
Hayward, WI, Hayward/Sawyer County, NDB or GPS RWY 20, Amdt 12, Cancelled
Hayward, WI, Hayward/Sawyer County, NDB RWY 20, Amdt 12

[FR Doc. 99–26534 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Income Taxes

CFR Correction

In Title 26 of the Code of Federal Regulations, part 1 (§ 1.1401 to End), revised as of Apr. 1, 1999, page 689, § 1.6041–2 is corrected by reinstating the fourth sentence of paragraph (a)(1) to read as follows:

§ 1.6041–2 Return of information as to payments to employees.

(a)(1) *In general.* * * * For example, if a payment of $700 was made to an employee and $400 thereof represents wages subject to withholding under section 3402 and the remaining $300 represents compensation not subject to withholding, such wages and compensation must both be reported on Form W–2.

* * * * *

[FR Doc. 99–55533 Filed 10–8–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–99–057]

RIN 2115–AE47

Drawbridge Operating Regulation; Gulf Intracoastal Waterway, Algiers Alternate Route, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the operation of the State Route 23 vertical lift span drawbridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Louisiana. The Temporary rule will allow the bridge to remain closed to navigation from 4 p.m. until 6:45 p.m. on Saturday, October 30, 1999 and from 4 p.m. until 7 p.m. on Sunday, October 31, 1999. This temporary rule is issued to facilitate movement of vehicular traffic for the New Orleans Open House 1999 Air Show, to be held at the U.S. Naval Air Station, Joint Reserve Base at Belle Chasse, Louisiana.

DATES: This temporary rule is effective from 4 p.m. on October 30, 1999 until 7 p.m. on October 31, 1999.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch of the eighth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Johnson, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION:

Discussion of Temporary Rule

The State Route 23 vertical lift span drawbridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Louisiana has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 100 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists primarily of tugs with tows, commercial fishing vessels, and occasional recreational craft.

The Louisiana Department of Transportation and Development has requested a temporary rule changing the operation of the State Route 23 vertical lift span drawbridge. The rule is needed to accommodate the additional volume of vehicular traffic that the New Orleans Open House Air Show is expected to generate. Between 150,000 and 200,000 members of the public are expected to attend the New Orleans Open House Air Show on each day. The temporary rule will allow for the expeditious dispersal of the heavy volume of vehicular traffic expected to depart the U.S. Naval Air Station, Joint Reserve Base following the event.

The Coast Guard has determined that good cause exists to forego a notice and comment period for this rulemaking. Following normal rulemaking procedures in this instance would be impractical because the Coast Guard Bridge Administration Branch did not receive notification of the event in sufficient time to accommodate a notice and comment period. Further, there is not enough time to reschedule or delay the event. For the above reasons the Coast Guard has also determined that good cause exists to make this temporary rule effective in less than 30 days after publication.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has 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 temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because the number of vessels impaired during the closed-to-navigation periods is minimal. All commercial vessels still have ample opportunity to transit this waterway before and after the two-hour and 45-minute closure on October 30 and the three-hour closure on October 31, 1999. Additionally, a practical alternate route of approximately seven additional miles is available via the Harvey Canal and the Mississippi River.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this temporary rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may 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.

The temporary rule considers the needs of local commercial fishing

vessels, as the study of vessels passing the bridge included such commercial vessels. These local commercial fishing vessels will only be inconvenienced for two hours and 45 minutes on a Saturday and three hours on a Sunday on a one-time basis. Also, there is a practical alternate route of approximately seven additional miles via the Harvey Canal and Mississippi River. Thus, the economic impact is expected to be minimal. There is no indication that other waterway users would suffer any type of economic hardship if they are precluded from transiting the waterway during the hours that the draw is scheduled to remain in the closed-to-navigation position. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary rule does not provide for a collection-of-information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this temporary rule under the principles and criteria contained in Executive Order 12612 and has determined that this temporary rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. The authority to regulate the permits of bridges over the navigable waters of the U.S. belongs to the Coast Guard by Federal statutes.

Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that under Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1C, this temporary rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 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. Effective October 30, 1999 through October 31, 1999 § 117.451 is amended by suspending paragraph (b) and adding a new paragraph (f).

§ § 117.451 Gulf Intracoastal Waterway.

* * * * *

(f) The draw of the SR 23 bridge, Algiers Alternate Route, mile 3.8 at Belle Chasse, shall open on signal; except that from 4 p.m. until 6:45 p.m. on Saturday, October 30, 1999 and from 4 p.m. until 7 p.m. on Sunday, October 31, 1999, the draw need not open for the passage of vessels.

Dated: September 30, 1999.

Paul J. Pluta,

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

[FR Doc. 99–26531 Filed 10–8–99 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP New Orleans, LA Reg. 99–026]

RIN 2115–AA97

Safety Zone Regulations; Mile 94.0 to Mile 96.0, Lower Mississippi River, Above Head of Passes

AGENCY: Coast Guard, DOT.

ACTION: Temporary Rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone from mile 94.0 to mile 96.0, Lower Mississippi River, Above Head of Passess, extending the entire width of the river. The safety zone has been established to protect personnel involved in pollution response and underwater diving operations within the channel. Entry into this zone while divers are deployed is prohibited to all vessels, with the exception of towing vessels operating without tows, unless authorized by the Captain of the Port. Entry into this zone while divers are not deployed will be managed by the Coast Guard Traffic Light Operator at Governor Nicholls Traffic Light, VHF–FM Channel–67. The Governor Nicholls and Gretna Traffic Lights will be in operation until the safety zone expires. Authorization to enter the safety zone while divers are deployed will only be granted during emergency situations which affect the safety of vessels or the safety of the port.

EFFECTIVE DATES: This temporary rule is effective on October 1, 1999, commencing at 6 P.M. CDT until October 13, 1999, ending at 6 P.M. CDT.

FOR FURTHER INFORMATION CONTACT: COTP New Orleans representative, LT(jg) Kevin Lynn at (504) 589–4221.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to pubic interest since immediate action is needed to respond to the potential hazards to local marine traffic and personnel involved in pollution response and diving operations.

Background and Purpose

The hazardous condition requiring this regulation is a result of personnel involved in pollution response and diving operations on the Lower Mississippi River between 94.0 and mile 96.0 Above Head of Passes. A safety zone is needed to protect personnel involved in pollution response and underwater diving operations in the area. Entry into this zone is prohibited to all vessels, with the exception of towing vessels operating without tows, unless authorized by the Captain of the Port. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of Part 165.

Regulatory Evaluation

This temporary rule is not a significant regulatory evaluation under Executive Order 12866 and is not significant under the ''Department of Transportation Regulatory Policies and Procedures'' (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. This regulation will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to

warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this proposal is categorically excluded from further environmental documentation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Since the impact of this regulation on non-participating small entities is expected to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b)) that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will only be in effect for several days and the impacts on small entities are expected to be minimal.

List of Subjects in 33 CFR Part 165

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

Regulation: In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 1605; 49 CFR 1.46.

2. A new § 165.T08–038 is added to read as follows:

§ 165T08–038 Safety Zone: Lower Mississippi River.

(a) *Location.* The following areas is a safety zone: Lower Mississippi river from mile 94.0 to mile 96.0 Above head of Passes, in the vicinity of Algiers Point extending the entire width of the river.

(b) *Effective date.* This section will become effective on October 1, 1999 at 6 P.M. CDT. It will be terminated on October 13, 1999, at 6 P.M. CDR. The Captain of the Port will notify the public of changes in the status of this zone by Marine Radio Safety Broadcasts on VH Marine Band radio, Channel 22 (157.1 MHZ).

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone by any vessel, with the exception of towing vessels operating without tows, is prohibited unless authorized by the Captain of the Port New Orleans.

Dated: September 22, 1999.

S. W. Rochon,

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

[FR Doc. 99–26679 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE027–1027a; FRL–6453–5]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; 15 Percent Rate of Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is converting its conditional approval of the Delaware's State Implementation Plan (SIP) revision to achieve a 15 percent reduction in volatile organic compound (VOC) emissions to a full approval. This SIP revision is commonly referred to as the 15% Rate of Progress Plan (the 15% plan). Delaware fulfilled the condition listed in EPA's conditional approval published on May 19, 1997. The intent effect of this action is to convert the conditional approval of Delaware's 15% plan to a full approval.

DATES: This rule is effective on December 13, 1999 without further notice, unless EPA receives adverse written comment by November 12, 1999. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, at the EPA Region III address above, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Clean Air Act, the State of Delaware submitted a 15% plan for its portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. EPA is now converting its conditional approval of the Delaware's 15% plan SIP revision to a full approval. In a rule published on May 19, 1997 (62 FR 27198), EPA granted a conditional approval to the Delaware's 15% plan because the State's enhanced inspection and maintenance (I/M) program, one of many control measures adopted by Delaware to achieve the 15% reduction in VOC emissions, had only been conditionally approved at the time.

On July 7, 1999 (64 FR 36635), EPA proposed full approval of Delaware's enhanced I/M SIP. No comments were received during the public comment period. EPA has recently published its final rule fully approving Delaware's enhanced I/M SIP. Because Delaware's enhanced I/M SIP is fully approved, EPA is now fully approving the 15% plan and associated contingency measures for Delaware. The effective date of EPA's final rule fully approving Delaware's enhanced I/M SIP will precede the effective date of this direct final rule to grant full approval of Delaware's 15% plan.

II. EPA Action

EPA is converting its conditional approval of the Delaware's 15% plan and associated contingency measures to a full approval. An extensive discussion of the Delaware 15% plan and EPA's rationale for its approval were provided in the previous final rule which conditionally approved the 15% plan (see 62 FR 27198) and shall not be restated here. This action to convert our conditional approval to a full approval is being published without prior proposal because we view this as a noncontroversial amendment and because we anticipate no adverse comments. In a separate document in the ''Proposed Rules'' section of this **Federal Register** publication, we are proposing to fully approve the Delaware's 15% plan SIP revision if adverse comments are filed. This action will be effective without further notice unless we receive relevant adverse

comment by November 12, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. Any parties interested in commenting must do so at this time. If no such comments are received by November 12, 1999, you are advised that this action will be effective on December 13, 1999.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled ''Regulatory Planning and Review.''

B. Executive Orders on Federalism

Under E.O. 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. If EPA complies by consulting, E.O. 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 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.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 (52 FR 41685 (October 30, 1987)), on federalism still applies. This rule will not have a substantial direct effect on 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, as specified in Executive Order 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety 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 final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 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. If EPA complies by consulting, Executive Order 13084 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 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 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 annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal

governments, or to the private sector, result from this action.

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 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).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to fully approve the State of Delaware's 15% plan must be filed in the United States Court of Appeals for the appropriate circuit by December 13, 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: September 23, 1999.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart I—Delaware

2. Section 52.426 is added to read as follows:

§ 52.426 Control strategy: ozone.

EPA fully approves, as a revision to the Delaware State Implementation Plan, the 15 Percent Rate of Progress Plan for the Delaware portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment, namely Kent and New Castle Counties, submitted by the Secretary of Delaware Department of Natural Resources and Environmental Control on February 17, 1995.

3. Section 52.424(a) is removed and reserved.

[FR Doc. 99–26195 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN96–2; FRL–6452–6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On July 26, 1999, the EPA published a direct final rule approving as amendments to the Indiana State Implementation Plan, temporary revised opacity limits for two processes at ALCOA Warrick Operations, which were submitted by the Indiana Department of Environmental Management on December 8, 1998. The preamble of that direct final rule incorrectly identified some of the subject sources. This action corrects this inadvertent error.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used, we mean EPA. In the July 26, 1999, **Federal Register** document (64 FR 40287) in both the **SUMMARY** in the second column on page 40287 and in section I. What Is the EPA Approving? of the **SUPPLEMENTARY INFORMATION** in the third column on page 40287, we incorrectly identified some of the subject sources. Specifically, we stated that the revised limits allow for higher opacity emissions during fluxing operations at two furnaces. In fact, the revised limits allow for higher opacity emissions during fluxing operations at two complexes—each of which contains two furnaces. We correctly stated this information in section III. What Are the Provisions of the Temporary Opacity Limits? of the **SUPPLEMENTARY INFORMATION** which begins at the top of the first column on page 40288. We regret any inconvenience this inadvertent error may have caused.

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

Dated: September 23, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 99–26071 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

Approval and Promulgation of State Plans for Designated Facilities and Pollutants

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 61 to 62, revised as of July 1, 1999, page 296, the authority citation for part 62 is correctly revised to read ''42 U.S.C. 7401–7671q''.

[FR Doc. 99–55534 Filed 10–8–99; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 201

Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 190 to 259, revised as of July 1, 1999, page 68, § 201.24 is corrected by removing the formula at the end of the section and reinstating Figure 1 in its place as follows:

§ 201.24 Procedures for measurement at a 30 meter (100 feet) distance of the noise from locomotive and rail car operations and locomotive load cell test stands.

* * * * *

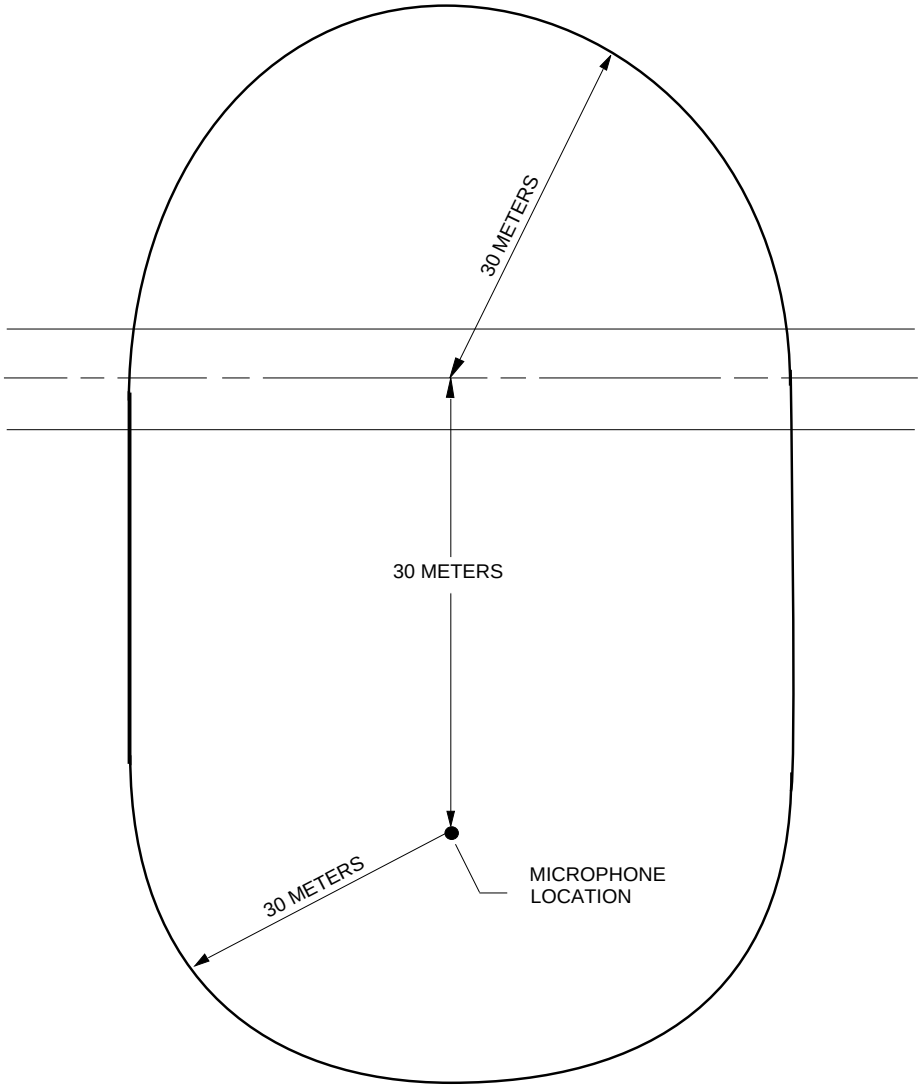

Figure 1. Test Site Clearance Requirement for Stationary Locomotive, Locomotive Pass-by, Rail Car Pass-by, and Locomotive Load Cell Test Stand Tests.

[FR Doc. 99–55535 Filed 10–8–99; 8:45 am]
BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6449–8]

Washington: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Washington has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization with one exception discussed later in this rulemaking. Unless adverse written comments are received during the review and comment period provided in this immediate final rule, EPA's decision is to authorize the State's changes through this final action.

DATES: This Final authorization for Washington shall be effective January 11, 2000 if EPA receives no adverse comment on this document by November 12, 1999. Should EPA receive adverse comments, EPA will withdraw this rule before the effective date by publishing a timely withdrawal in the **Federal Register**.

ADDRESSES: Send written comments to Nina Kocourek, U.S. EPA, Region 10, WCM–122, 1200 Sixth Avenue, Seattle, WA 98101, phone number: (206) 553–6502. You can view and copy Washington's application during normal business hours at the following addresses: U.S. EPA, Region 10, Library, 1200 Sixth Avenue, Seattle, WA 98101, contact at (206) 553–1259; and the Washington Department of Ecology, 300 Desmond Drive, Lacey, WA 98503, contact Patricia Hervieux, (360) 407–6756.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, EPA Region 10, WCM–122, 1200 Sixth Avenue, Seattle, WA 98101, phone number: (206) 553–6502.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273, and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Washington's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Washington Final authorization to operate its hazardous waste program with the changes described in the authorization application with the exception of the State's designation of characteristic antifreeze as a state-only waste. Washington has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and on the non-trust lands within the 1873 Survey Area of the Puyallup Reservation as defined in the settlement agreement between the Puyallup Tribe, Federal, State and local governments dated August 27, 1988. EPA retains jurisdiction and authority to implement RCRA over trust lands and over Indians and Indian activities within the 1873 Survey Area. The authorized program is responsible for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the limitation of this authorization with respect to the State's designation of characteristic antifreeze as a state-only waste. New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Washington, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this authorization decision is that a facility in Washington subject to RCRA will now have to comply with the authorized State requirements and with the federal HSWA provisions for which the State is not authorized in order to comply with RCRA. Washington has enforcement responsibilities under its State hazardous waste program for violations of its currently authorized program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections and require monitoring, tests, analyses, or reports.
- Enforce RCRA requirements and suspend or revoke permits.
- Take enforcement actions regardless of whether the State has taken its own actions.
- Take an action where a situation may present an imminent and substantial endangerment to health or the environment.

This action does not impose additional requirements on the regulated community because the regulations for which Washington is requesting authorization are already effective, and are not changed by this approval. Therefore, if the EPA does not receive adverse written comment on Washington's application for program revision by the end of the comment period, the authorization of Washington's revision shall become effective on January 11, 2000 and EPA will take no further action on the companion document appearing in the Proposed Rules section of today's **Federal Register**.

D. What Happens If EPA Receives Comments That Oppose This Action?

If the Agency does receive adverse written comment, it will publish a notice withdrawing this immediate final rule before its effective date. EPA then will address the comment(s) in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of today's authorization rule. However, the authorization of the program changes that are not opposed by any comments will become effective on the date specified. The **Federal Register** withdrawal document will specify which part of the authorization will become effective and which part is being withdrawn. Any parties interested in commenting should do so in accordance with the time frame provided in today's **Federal Register**. We will address all public comments in a later **Federal Register**. You will not have another opportunity to comment. If you want to comment on this action, you must do so at this time.

E. What Has Washington Previously Been Authorized For?

Washington initially received Final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3782) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on September 22, 1987 effective on November 23, 1987 (52 FR 35556); August 17, 1990 effective October 16, 1990 (55 FR 33695); November 4, 1994 effective November 4, 1994 (59 FR 55322); February 29, 1996 effective on April 29, 1996 (41 FR 7736); and September 22, 1998 effective on October 22, 1998 (63 FR 50531).

F. What Changes Are We Authorizing With Today's Action?

On July 27, 1999, we received submittal of an official program revision application seeking authorization of their changes in accordance with 40 CFR 271.21. On August 12, 1999, we determined Washington's official program revision application to be complete. We are now making a Final decision, subject to receipt of written comments that oppose this action, that Washington's hazardous waste program revision, with the exception of the State's designation of characteristic antifreeze as a state-only waste, satisfies all of the requirements necessary to qualify for Final authorization. The following table indicates those federal rules and the analogous Washington state authorities that are receiving final authorization. All of these analogous state authorities were legally adopted and were effective as of February 11, 1998.

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173–303–. . .)
17H	Double Liners	50 FR 28702, 07/15/85	650:(2)(a); (2)(i); (k); (l); (m); (c)(f), 665:(2)(a); (2)(h); (2)(i); (2)(k); (2)(l); (c)–(f), 400:(3)(a).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173–303–...)
17F	Liquids in Landfills I	50 FR 28702, 07/15/85	140:(4)(b); (4)(b)(i); (4)(b)(iv); (4)(b)(iv)(A); (4)(b)(iv)(B), 400:(3)(a).
17I	Ground-Water Monitoring	50 FR 28702, 07/15/85	645:(1)(b), 650:(3); (4)(b)(iii); (6)(b)(ii), 660:(5)(b)(ii), 665:(4)(b)(ii); (6)(b)(ii).
17N	Permit Life	50 FR 28702, 07/15/85	830:(3)(a)(v), 806:(11)(d).
21	Listing of EDB wastes	51 FR 5327, 02/13/86	9904, 110:(3)(f), 082:(4).
22	Listings of Four Spent Solvents	51 FR 6537, 02/25/86	9903, 9904, 110:(3)(f); 082:(4), 9905.
31	Exports of Hazardous Waste* ..	51 FR 28664, 08/08/86	070:(8)(b)(iii), 230:(1); (2); (3)(b), 120:(2)(a)(i), 220:(1)(a), 600:(3)(f), 160:(2)(b), 180:(1), 240:(3)(a), 250:(9)(c).
32	Standards for Generators-Waste Minimization Certification.	51 FR 35190, 10/01/86	180:(1).
42	Exception Reporting for Small 52 Quantity Generators of Hazardous Waste*.	52 FR 35894, 09/23/87	220: (2)(a); (2)(b) & (c), 210 & 220.
44C	Corrective Action for Injection Wells*.	52 FR 45788, 12/01/87	(WAC 173–216–050): 400:(2)(c)(ii), 802:(3).
44D	Permit Modification	52 FR 45788, 12/01/87	830:(3)(a)(iii).
44E	Permit as a Shield Provision	52 FR 45788, 12/01/87	810:(8).
44F	Permit Conditions to Protect Human Health and the Environment.	52 FR 45788, 12/01/87	800:(11).
44G	Post-Closure Permits	52 FR 45788, 12/01/87	802:(2), 806:(4)(a)(xiii), 800:(9); (9)(a); (9)(b); (9)(b)(i); (9)(b)(ii); (10)(a); (10)(b); (10)(c).
47	Identification and Listing of Hazardous Waste; Technical Correction.	53 FR 27162, 07/19/88	070:(8)(a)(ii) & (iii).
56	Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes.	53 FR 43878, 10/31/88	9903, 9905.
57	Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Waste.	53 FR 43881, 10/31/88	9903, 9905.
64	Delay of Closure Period for Hazardous Waste Management Facilities*.	54 FR 33376, 08/14/89	300:(2); (4)(a); (5)(a), 610:(3)(c)(ii)(A); (3)(c)(ii)(B); (4)(a); (4)(a)(ii)(A); (4)(b); (4)(b)(ii)(A); (4)(c); (4)(d); (4)(d)(i); (4)(d)(i)(A); (4)(d)(i)(B); (4)(d)(i)(C); (4)(d)(i)(D); (4)(d)(i)(E); (4)(d)(ii); (4)(d)(iii); (4)(d)(iv); (4)(e); (4)(e)(i); (4)(e)(i)(A); (4)(e)(i)(B); (4)(e)(ii); (4)(e)(iii); (4)(e)(iv); (4)(e)(iv)(A); (4)(e)(iv)(B); (4)(e)(iv)(C); (4)(e)(v); (4)(e)(vi); (4)(e)(vii); (4)(e)(vii)(A); (4)(e)(vii)(B); (4)(e)(vii)(C); (4)(e)(vii)(D); (4)(e)(vii)(E), 620:(3)(a)(iii); (3)(a)(iv), 300:(2);(4)(a); (5)(a), 400:(3)(a), 830:Appendix 1 D.(1)(f).
67	Testing and Monitoring Activities.	54 FR 40260, 09/29/89	110:(3)(a); (3)(f).
68	Reportable Quantity Adjustment Methyl Bromide Production Waste.	54 FR 41402, 10/06/89	9904, 110:(3)(f), 082:(4).
69	Reportable Quantity Adjustment	54 FR 50968, 12/11/89	9904, 082:(4), 9905.
72	Modification of F019 Listing	55 FR 5340, 02/14/90	9904.
73	Testing and Monitoring Activities; Technical Corrections.	55 FR 8948, 03/09/90	110:(3)(a), 110:(3)(f).
75	Listing of 1,1-Dimethylhydrazine Production Wastes.	55 FR 18496, 05/02/90	9904, 110:(3)(f), 082:(4).
77	HSWA Codification Rule; Double Liners; Correction.	55 FR 19262, 05/09/90	650:(2)(j), 665:(2)(h).
79	Hazardous Waste Treatment, Storage, and Disposal Facilities—Organic Air Emission Standards for Process Vents and Equipment Leaks.	55 FR 25454, 06/21/90	110:(3)(g), 120:(4)(c); (4)(d); (4)(e), 300:(5)(f); 320:(2)(c), 380:(1)(c); (1)(f), 390:(3)(d), 690:(1)(a); (1)(b); (1)(b)(i); (1)(b)(ii); (1)(b)(iii); (2), 691:(1)(a); (1)(b); (b)(i); (1)(b)(ii); (1)(c); (1)(d); (1)(e);(2); 300:(5)(f), 320:(2)(c), 380:(1)(c); (1)(f), 390:(3)(d), 400:(3)(a), 806:(4)(a)(v); (4)(a)(viii)(D); (4)(a)(viii)(E); (4)(a)(viii)(F); (4)(j); (4)(j)(i); (j)(ii); (4)(j)(ii)(A); (4)(j)(ii)(B); (4)(j)(ii)(C); (4)(j)(iii); (4)(j)(iv); (4)(j)(iv)(A); (4)(j)(iv)(B); (4)(j)(iv)(C); (4)(j)(iv)(D); (4)(j)(iv)(E); (4)(k); (4)(k)(i); (4)(k)(i)(A); (4)(k)(i)(B); (4)(k)(i)(C); (4)(k)(i)(D); (4)(k)(i)(E); (4)(k)(i)(F); (4)(k)(ii); (4)(k)(iii); (4)(k)(iv); (4)(k)(v); (4)(k)(v)(A); (4)(k)(v)(B); (4)(k)(v)(C); (4)(k)(v)(D); (4)(k)(v)(E).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173–303–...)
81	Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 & F038).	55 FR 46354, 11/02/90; as amended on 12/17/90 at 55 FR 51707.	9904, 9904; ftnote: 2; 2(a); 2(b)(i); 2(b)(i)(i); 2(b)(i)(ii); 2(b)(i)(iii); 2(b)(ii); 2(b)(ii)(i); 2(b)(ii)(ii); 2(c)(i); 2(c)(ii); 2(c)(ii)(A); 2(c)(ii)(B), 082:(4).
84	Toxicity Characteristic; Chlorofluoro-carbon Refrigerants*.	56 FR 5910, 02/13/91	506: (2)(3).
86	Removal of Strontium Sulfide From the List of Hazardous Wastes; Technical Amendment.	56 FR 7567, 02/25/91	9903, 9904.
87	Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment.	56 FR 19290, 04/26/91	690: (1)(a); (1)(b); (2), 691:(2), 300:(5)(f), 380:(1)(c), 400:(3)(a), 806:(4)(j)(iv)(B); (4)(k)(v)(B).
89	Revision to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038).	56 FR 21955, 05/13/91	9904.
97	Exports of Hazardous Waste; Technical Correction.	56 FR 43704, 09/04/91	230:(1).
99	Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations.	56 FR 66365, 12/23/91	040, 400:(3)(a).
100	Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units.	57 FR 3462, 01/29/92	040, 320:(2)(c), 335:(1); (1)(a); (1)(b); (1)(b)(i); (1)(b)(ii); (1)(b)(iii); (1)(b)(iv); (1)(b)(v); (1)(b)(vi); (2); (2)(a); (2)(b); (2)(c); (3); (3)(a); (3)(a)(i); (3)(a)(ii); (3)(a)(iii); (3)(b); (4), 380:(1)(f), 650:(2)(j); (2)(j)(i); (2)(j)(i)(A); (2)(j)(i)(B); (2)(j)(ii); (2)(j)(iii); (2)(j)(iii)(A); (2)(j)(iii)(B); (2)(j)(iii)(C); (2)(j)(iii)(D); (2)(j)(iii)(E); (2)(j)(iv); (2)(j)(v); (2)(k); (2)(k)(i); (2)(k)(ii); (2)(m); (2)(m)(i); (2)(m)(ii); (2)(f); (g) (h); (i); (10)(a); (10)(b); (11)(a); (11)(b); (11)(b)(i); (11)(b)(ii); (11)(b)(iii); (11)(b)(iv); (11)(b)(v); (11)(b)(vi); (11)(c); (11)(c)(i); (11)(c)(ii); (11)(c)(iii); (11)(c)(iv); (4)(d)(i); (4)(d)(ii); (4)(d)(iii); (6)(b)(ii); (6)(b)(iii); (6)(b)(iv), 660:(2)(j); (2)(j)(i); (2)(j)(i)(A); (2)(j)(i)(B); (2)(j)(i)(C); (2)(j)(ii); (2)(j)(iii); (2)(j)(iii)(A); (2)(j)(iii)(B); (2)(j)(iii)(C); (2)(j)(iii)(D); (2)(j)(iii)(E); (2)(j)(iv); (2)(j)(v); (2)(k); (2)(k)(i); (2)(k)(ii); (2)(l); (2)(m); (2)(m)(i); (2)(m)(ii); (2)(d)(e); (f); (g); (h) & (i); (3)(a); (4)(a); (4)(b); (4)(b)(i); (4)(b)(ii); (4)(b)(iii); (4)(b)(iv); (4)(b)(v); (4)(b)(vi); (4)(c); (4)(c)(i)(A); (4)(c)(i)(B); (4)(c)(i)(C); (4)(c)(ii); (5)(c), 665:(h); (2)(h)(i); (2)(h)(i)(A); (2)(h)(i)(B); (2)(h)(i)(C); (2)(h)(ii); (2)(h)(iii); (2)(h)(iii)(A); (2)(h)(iii)(B); (2)(h)(iii)(C); (2)(h)(iii)(D); (2)(h)(iii)(E); (2)(h)(iv); (2)(h)(v); (j); (j)(i); (j)(ii); (2)(l); (2)(l)(i); (2)(l)(ii); (2)(c)–(g); (8)(a); (8)(b); (4)(c)(i); (4)(c)(ii); (4)(c)(iii); (9)(a); (9)(b); (9)(b)(i); (9)(b)(ii); (9)(b)(iii); (9)(b)(iv); (9)(b)(v); (9)(b)(vi); (9)(c); (9)(c)(i); (9)(c)(ii); (9)(c)(iii); (9)(c)(iv); (6)(b)(ii); (6)(b)(iv)–(vi), 320:(2)(c), 400:(3)(a), 380:(1)(f), 810:(8)(a); (8)(a)(i); (8)(a)(ii); (8)(a)(iii), 806:(4)(d)(ii); (4)(d)(ii)(D); (4)(d)(ii)(E); (4)(d)(ii)(F); (4)(d)(ii)(G); (4)(d)(ii)(B) & (C); (d)(iv); (4)(e)(iii); (4)(e)(iii)(A)(I); (4)(e)(iii)(A)(II); (4)(e)(iii)(A)(III); (4)(e)(iii)(A)(IV); (4)(e)(iii)(A)(V); (4)(e)(v); (4)(h)(ii); (4)(h)(ii)(A)(I); (4)(h)(ii)(A)(II); (4)(h)(ii)(A)(III); (4)(h)(ii)(A)(IV); (4)(h)(ii)(A)(V); (4)(h)(iv), 830 appendix 1.
113	Consolidated Liability Requirements: Financial Responsibility for Third-Party Liability, Closure, and Post-Closure.	53 FR 33938, 09/01/88; 56 FR 30200, 07/01/91; 57 FR 42832, 09/16/92.	620: (2)(h); (4)(b); (6)(b); (8)(a); (8)(b); (8)(f); (10), 400:(3)(a).
115	Chlorinated Toluenes Production Waste Listing.	57 FR 47376, 10/15/92	9904, 082:(4).
118	Liquids in Landfills II	57 FR 54452, 11/18/92	040, 300:(6)(c), 140:(4)(b)(i); (4)(b)(ii)(A)(II); (4)(b)(iv); (4)(b)(iv)(A); (4)(b)(iv)(A)(I); (4)(b)(iv)(A)(II); (4)(b)(iv)(A)(III); (4)(b)(iv)(B); (4)(b)(iv)(B)(I); (4)(b)(iv)(B)(II); (4)(b)(v); (4)(b)(v)(A); (4)(b)(v)(B), 161:(2); (3), 400:(3)(a).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173–303–...)
119	Toxicity Characteristic Revision; TCLP Correction.	57 FR 55114, 11/24/92; as amended on 02/02/93 at 58 FR 6854.	110:(3)(f).
137	Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristics Wastes and Newly Listed Waste (HSWA/Non-HSWA).	59 FR 47982, 09/19/94; as amended at 60 FR 242, 01/03/95.	017:(5)(a); (5)(a)(ii); (5)(b)(i); (5)(b)(ii); (6); (7); (7)(a); (7)(b); (2)(iii), 600:(3)(n), 400:(2)(c)(ix), 505:(2)(c), 140:(2)(a).
14	Dioxin Waste Listing and Management Standards*.	50 FR1978, 01/14/85	070:(8)(a); (7)(a), 081:(2)(a)(iv) & 082:(2)(b), 160:(2)(a); (2)(b)&(c), 082:(2)(a); 9904, 9903, 110:(3)(c); 082:(5); 9905, 110:(3)(d); 630:(7)(c), 650:(9)(a); (9)(b), 660:(10)(a); (10)(b), 655:(12)(a); (12)(b), 140:(2)(a), 600:(6) & 665:(1); 670:(4)(a)(i), 400:(3)(a), 806:(4)(a)(vii); (4)(c)(vii); (4)(d)(x); (4)(e)(x); (4)(g)(viii); (4)(h)(vii).
60	Amendment to Requirements for Hazardous Waste Incinerator Permits.	54 FR 4286, 01/30/89	807:(10).
49 & 129 (Consolidated Checklist).	Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption* as of 06/30/94.	53 FR 27290, 07/29/88; 59 FR 8362, 02/18/94.	040, 071:(3)(r)(i); (3)(r)(i)(A); (3)(r)(i)(B); (3)(r)(i)(C); (3)(r)(ii); (3)(r)(ii)(A); (3)(r)(ii)(B); (3)(r)(ii)(C); (3)(r)(ii)(C)(I); (3)(r)(ii)(C)(II); (3)(r)(ii)(D); (3)(r)(ii)(E); (3)(r)(ii)(E)(I)–(III); (3)(r)(ii)(F); (3)(r)(iii); (3)(r)(iii); (3)(r)(iii)(A); (3)(r)(iii)(B); (3)(r)(iii)(C); (3)(r)(iii)(C)(I); (3)(r)(iii)(C)(II); (3)(r)(iii)(C)(III); (3)(r)(iii)(C)(IV); (3)(r)(iii)(C)(V); (3)(s); (3)(s)(i); (3)(s)(ii); (3)(s)(iii); (3)(s)(iv); (3)(s)(v); (3)(s)(vi); (3)(s)(vii); (3)(s)(vii); (A thru G); (3)(s)(viii); (3)(s)(ix); (3)(s)(ix)(A thru G); (3)(s)(x); (3)(r)(i)(D); (3)(s)(xi).
82, 91, 92, 101, & 120 (Consolidated checklist).	Wood Preserving Listing* as of 06/30/94.	55 FR 50450, 12/06/90; 56 FR 27332, 06/13/91; 56 FR 30192, 07/01/91; 57 FR 5859, 02/18/92; 57 FR 61492, 12/24/92.	040, 071:(3)(w)(i); (3)(w)(ii), 9904, 083:(1); (2); (2)(a); (2)(a)(i); (2)(a)(ii); (2)(a)(iii); (2)(b); (2)(b)(i); (2)(b)(i)(A); (2)(b)(i)(B); (2)(b)(i)(C); (2)(b)(i)(D); (2)(b)(i)(E); (2)(b)(ii); (2)(b)(ii)(A); (2)(b)(ii)(B); (2)(b)(iii); (2)(b)(iii)(A); (2)(B)(iii)(B); (2)(b)(iv); (2)(c); (2)(c)(i); (2)(c)(i)(A); (2)(c)(i)(B); (2)(c)(i)(C); (2)(c)(ii); (2)(d); (3); (3)(a); (3)(b); (3)(c); (3)(d); (3)(e); (3)(f); (3)(g); (3)(h); (3)(i); (3)(j); (3)(k); (3)(l), 110:(3)(f), 082:(4), 9905, 200:(1)(b); (1)(b)(i); (1)(b)(ii); (1)(b)(iii); (1)(b)(iii)(A); (1)(b)(iii)(B); (1)(c), 640:(1); (1)(d), 675:(1)(a); (1)(b); (1)(c); (1)(c)(i); (1)(c)(ii); (1)(c)(iii); (1)(c)(iv); (2)(a); (2)(b); (2)(c); (2)(d); (3); (3)(a); (3)(b); (4)(a); (4)(a)(i); (4)(a)(ii); (4)(a)(iii); (4)(a)(iv)(A); (4)(a)(iv)(B); (4)(a)(v); (4)(b); (4)(b)(i); (4)(b)(i)(A); (4)(b)(i)(B); (4)(b)(i)(C); (4)(b)(ii); (4)(b)(ii)(A); (4)(b)(ii)(A)(I); (4)(b)(ii)(A)(II); (4)(b)(ii)(B); (4)(b)(ii)(C); (4)(b)(iii); (4)(c); (4)(d); (4)(e); (4)(f); (4)(g); (4)(h); (4)(i); (4)(j); (4)(k); (4)(l); (4)(m); (4)(m)(i); (4)(m)(i)(A); (4)(m)(i)(B); (4)(m)(i)(C); (4)(m)(i)(D); (4)(m)(ii); (4)(m)(iii); (4)(n); (4)(o); (5)(a); (5)(b); (5)(b)(i); (5)(b)(ii); (5)(b)(iii); (6)(a); (6)(b); (6)(c)(i); (6)(c)(i)(A); (6)(c)(i)(B); (6)(c)(ii); 400:(3)(a), 806:(4)(l); (4)(l)(i); (4)(l)(ii); (4)(l)(iii); (4)(l)(iii)(A); (4)(l)(iii)(B); (4)(l)(iii)(C); (4)(l)(iii)(D); (4)(l)(iii)(E); (4)(l)(iii)(F); (4)(l)(iii)(G); (4)(l)(iii)(H); (4)(l)(iii)(I); (4)(l)(iii)(J); (4)(l)(iii)(K); (4)(l)(iii)(L); (4)(l)(iii)(M); (4)(l)(iii)(N); (4)(l)(iii)(O); (4)(l)(iii)(P).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173–303–...)
34, 39, 50, 62, 63, 66, 78, 83, 95, 102, 103, 106, 109, 116, 123 & 124 (Consolidated checklist).	Land Disposal Restrictions* as of 06/30/94.	51 FR 40572, 11/07/86; 52 FR 21010, 06/04/87; 52 FR 25760, 07/08/87; 52 FR 41295, 10/27/87; 53 FR 31138, 08/17/88; 54 FR 8264, 02/27/89; 54 FR 18836, 05/02/89; 54 FR 26594, 06/23/89; 54 FR 36967, 09/06/89; 55 FR 23935, 06/13/90; 55 FR 22520, 06/01/90; 56 FR 3864, 01/31/91; 56 FR 41164, 08/19/91; 57 FR 8086, 03/06/92; 57 FR 20766, 05/15/92; 57 FR 28628, 06/26/92; 57 FR 37194, 08/18/92; 57 FR 47772, 10/20/92; 58 FR 28506, 05/14/93; 58 FR 29860, 05/24/93.	Chapter 42.17 RCW; RCW, 43.21A.160, (WAC 173–303–...) 040, 110:(3)(g); 090:(5)(a)(i), 910:(1)(a); (2); (4), 016:(a), 071:(3)(bb)(i); (3)(bb)(ii); (2)(a)(ii)(A); (2)(c); (2)(c)(i); (2)(c)(ii); (3)(x); (3)(n); (3)(l); (3), 070:(2)(a)(ii)(A); (2)(c); (8)(a) & (b); (3)(a)(iii); (1)(b); (1)(b) & (7)(a) & (7)(c); (7); (8)(a); (6), 081:(2); (1)(c), 120:(2)(a); (4)(d), 160:(3), 090:(5)(b); (6)(b); (7)(b); (8)(b), 9904; 082:(4), 200:(1)(b)(iii); (1)(b)(iii)(B); (1)(b)(iv); (1)(b)(iv)(A); (1)(b)(iv)(B); (1)(c); (1)(e) & (f), 201:(2), 230:(3)(b); 240:(5), 600:(3)(n); (6), 300:(2); (5)(f); (5)(h); (5)(h)(i); (5)(h)(ii); (5)(h)(iii); (5)(h)(iii)(A); (5)(h)(iii)(B); (5)(h)(iii)(B)(I); (5)(h)(iii)(B)(II), 380:(1)(c); (1)(i); (1)(j); (1)(k); (1)(l); (1)(m); (1)(n); (1)(o), 610:(b); (1)(b); (2)(b); (3)(a); (1)(b)(i); (1)(b)(iv); (1)(b)(ii); (1)(b)(v); (3)(a), 650:(7), 660: (7), 655:(9), 665:(10)(a); (8)(b), 161:(7), 695, 400:(2)(c)(ix); (4); (3)(a), 505:(1)(b), 140:(2)(a), 806:(2); (4)(a)(ii); (4)(a)(xviii)(M); (3), 800:(8), 830:(4)(e)(iii)(B), 830 Appendix 1:B.1.b.; B.1.c.; B.1.d.; 1.6.; M, 805:(7)(b)(vi); (7)(b).
17C	Household Waste	50 FR 28702, 07/15/85	071:(3)(c).
17E	Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves.	50 FR 28702, 07/15/85	280:(5).
17G	Dust Suppression*	50 FR 28702, 07/15/85	505:(2)(c); (2)(d).
17M	Pre-construction Ban*	50 FR 28072, 07/15/85	806:(5).
17O	Omnibus Provision	50 FR 28702, 07/15/85	810:(19).
58	Standards for Generators of Hazardous Waste; Manifest Renewal.	53 FR 45089, 11/08/88	180:(1).
70 (Changes to Part 124 Not Accounted for by Present Checklist).	Environmental Permit Regulations; RCRA Hazardous Waste; SDWA Underground Injection Control; CWA National Pollutant Discharge Elimination System; CWA Section 404 Dredge or Fill Programs; and CAA Prevention of Significant Deterioration (See Revision Checklist 70 in Non-Hwsa Cluster VI) Hazardous Waste Management System; Permit Program; Requirements for Authorization of State Programs; Procedures for Decision making; Identification and Listing of Hazardous Waste; Standards for Owners and Operators of Hazardous Waste Storage, Treatment, and Disposal Facilities; Correction, Safe Drinking Water Act; National Drinking Water Regulations; Indian Lands, National Pollutant Discharge Elimination System Permit Regulations.	48 FR 14146, 04/01/83; 48 FR 30113, 06/30/83; 53 FR 28118, 07/26/88; 53 FR 37396, 09/26/88; 54 FR 246, 01/04/89.	806:(2), 840:(1); (10)(a); (10)(b) & (d); (10)(e); (2)(d)(i) & (ii); (2)(d)(iii); (3)(e)(i)(C); (3)(e)(i)(D); (3)(e)(i)(E); (5)(a).
71	Mining Waste Exclusion II**	55 FR 2322, 01/23/90	040, 180:(3)(f).
110	Coke By-Products Listings	57 FR 37284, 08/18/92	071:(3)(cc), 9904, 082:(4).
126	Testing and Monitoring Activities*.	58 FR 46040, 08/31/93; as amended 09/19/94 at 59 FR 47980.	110:(3)(a); (3)(h)(iii); (3)(f); (1), 910:(4)(a), 090:(6)(a)(i); (6)(a)(ii); (8)(a), 640:(1)(b), 140:(4)(b)(iii); (2)(a), 400:(3)(a), 806:(4)(f)(iii)(A)(III); (4)(f)(iii)(A)(IV), 807:(2)(a)(iii); (2)(a)(iv).
128	Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection.	59 FR 458, 01/04/94	110:(3)(a), 9905.
131	Record keeping Instructions; Technical Amendment.	59 FR 13891, 03/24/94	380:(2)(c) Table 1; (2)(d) Table 2.
133	Letter of Credit Revision	59 FR 29958, 06/10/94	620:(10).
134	Correction of Beryllium Powder (P015) Listing.	59 FR 31551, 06/20/94	9903, 9905, 140:(2)(a).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173–303–. . .)
135	Recovered Oil Exclusion	59 FR 38536, 07/28/94	071:(3)(p); (3)(cc), 120:(2)(a)(v); (2)(a)(vi), (2)(a)(viii); (2)(a)(ix).
136	Removal of the Conditional Exemption for Certain Slag Residues.	59 FR 43496, 08/24/94	505:(1)(b)(ii), 140:(2)(a).
139	Testing and Monitoring Activities Amendment I.	60 FR 3089, 01/13/95	110:(3)(a).
140	Carbamate Production Identification and Listing of Hazardous Waste*.	60 FR 7824, 02/09/95; as amended at 60 FR 19165, 04/17/95; and at 60 FR 25619, 05/12/95.	071:(3)(dd), 9904, 9903, 082:(4), 9905.
141	Testing and Monitoring Activities Amendment II.	60 FR 17001, 04/04/95	110:(3)(a).
142	Universal Waste Rule:	60 FR 25492, 05/11/95	
142A	General Provisions*		040:intro, 070:(7)(c); (7)(c)(i); (7)(c)(iii); (7)(c)(iv); (7)(c)(v); (8)(b)(iii); (8)(b)(iii)(A)–(C) & (E); (8)(b)(iii)(D); (8)(b)(iii)(G); 077 intro, 070:(1)(c); (7); (8); (b), 600:(3)(o), 400:(2)(ix), 140:(2)(a), 800:(7)(c)(iii), 573:(1)(a); (1)(b); (4)(a); (4)(a)(i); (4)(a)(ii); (4)(b), 040, 573:(6); (7); (7)(a); (7)(b); (8); (10); (11)(a); (11)(b); (11)(c); (11)(c)(i); (11)(c)(ii); (11)(c)(iii); (11)(c)(iv); (11)(c)(v); (11)(c)(vi); (12); (13)(a); (13)(b); (14)(a); (14)(b); (14)(c); (14)(d); (14)(e); (14)(e)(i); (14)(e)(ii); (14)(f); (14)(f)(i); (14)(f)(ii); (14)(g); (14)(h); (15); (16); (16)(a); (16)(b); (16)(c); (17); (18); (18)(a); (18)(b); (19)(a)(i); (19)(a)(ii); (19)(b); (19)(b)(i); (19)(b)(ii); (19)(b)(iii); (19)(b)(iv); (19)(b)(v); (21); (22)(a); (22)(b); (22)(c); (22)(c)(i); (22)(c)(ii); (22)(c)(iii); (22)(c)(iv); (22)(c)(v); (22)(c)(vi); (23); (24)(a); (24)(b); (25)(a); (25)(b); (25)(c); (25)(d); (25)(e); (25)(e)(i); (25)(e)(ii); (25)(f); (25)(f)(i); (25)(f)(ii); (25)(g); (25)(h); (26)(a); (26)(a)(i); (26)(a)(ii); (26)(a)(iii); (26)(b); (26)(b)(i); (26)(b)(ii); (26)(b)(iii); (26)(c)(i); (26)(c)(ii); (27); (27)(a); (27)(b); (27)(c); (28); (29); (29)(a); (29)(b); (30)(a); (30)(b); (31)(a); (31)(b); (32)(a); (32)(b); (33)(a); (33)(b); (34); (34)(a); (34)(b); (35)(a); (35)(b); (36)(a); (36)(b); (36)(b)(i); (36)(b)(ii); (36)(c); (36)(d); (37)(a); (37)(a)(i); (37)(a)(ii); (37)(a)(iii); (37)(b); (38); (38)(a); (38)(b); (38)(c).
142B	Specific Provisions for Batteries	60 FR 25492, 05/11/95	040, 120:(2)(iv); (v); (vii); (viii), 077:(a), 600:(3)(o)(i), 400:(2)(c)(xi)(A), 520:(intro); (1); (2), 140:(2)(a), 800:(7)(c)(iii)(A), 573:(1)(a)(i); (2)(a)(i); (2)(a)(ii); (2)(b); (2)(b)(i); (2)(b)(ii); (2)(b)(iii); (2)(c)(i); (2)(c)(ii); (9)(a); (9)(a)(i); (9)(a)(ii); (9)(a)(ii)(A); (9)(a)(ii)(B); (9)(a)(ii)(C); (9)(a)(ii)(D); (9)(a)(ii)(E); (9)(a)(ii)(F); (9)(a)(ii)(G); (9)(a)(iii); (9)(a)(iii)(A); (9)(a)(iii)(B); (10)(a); (20)(a); (20)(a)(i); (20)(a)(ii); (20)(a)(ii)(A); (20)(a)(ii)(B); (20)(a)(ii)(C); (20)(a)(ii)(D); (20)(a)(ii)(E); (20)(a)(ii)(F); (20)(a)(ii)(G); (20)(a)(iii); (20)(a)(iii)(A); (20)(a)(iii)(B); (21)(a).
142D	Specific Provisions for Thermostats.	60 FR 25492, 05/11/95	040, 077:(b), 600:(3)(o)(ii), 400:(2)(c)(xi)(B), 140:(2)(a), 800:(7)(c)(iii)(B), 573:(1)(a)(ii); (3)(a); (3)(b); (3)(b)(i); (3)(b)(ii); (3)(c)(i); (3)(c)(ii); (9)(b); (9)(b)(i); (9)(b)(ii); (9)(b)(ii)(A); (9)(b)(ii)(B); (9)(b)(ii)(C); (9)(b)(ii)(D); (9)(b)(ii)(E); (9)(b)(ii)(F); (9)(b)(ii)(G); (9)(b)(ii)(H); (9)(b)(iii)(A); (9)(b)(iii)(A)(I); (9)(b)(iii)(A)(II); (9)(b)(iii)(B); (9)(b)(iii)(C); (10)(b); (20)(b); (20)(b)(i); (20)(b)(ii); (20)(b)(ii)(A); (20)(b)(ii)(B); (20)(b)(ii)(C); (20)(b)(ii)(D); (20)(b)(ii)(E); (20)(b)(ii)(F); (20)(b)(ii)(G); (20)(b)(ii)(H); (20)(b)(iii)(A); (20)(b)(iii)(A)(I); (20)(b)(iii)(A)(II); (20)(b)(iii)(B); (2)(b)(iii)(C); (21)(b).
142E	Petition Provisions to Add a New Universal Waste.	60 FR 25492, 05/11/95	910:(1)(a); (7)(a); (2)(b); (7)(c); (7)(d), 573:(39)(a); (39)(b); (39)(c); (40)(a); (40)(b); (40)(c); (40)(d); (40)(e); (40)(f); (40)(g); (40)(h).
145	Liquids in Landfills III	60 FR 35703, 07/11/95	140:(4)(b)(iv)(A)(II); (4)(b)(iv)(A)(III).
150	Amendments to the Definition of Solid Waste; Amendment II: Recovered Oil Exclusion, Correction.	61 FR 13103, 03/26/96	071:(3)(cc).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173–303–. . .)
159	Conformance with the Carbamate Vacatur: Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions.	62 FR 32974, 06/17/97	9904, 9903, 9905, 082:(4), 140:(2)(a).

*Indicates State provision is more stringent.
**Indicates State provision is broader in scope.

G. Where Are the Revised State Rules Different From the Federal Rules?

Certain portions of the federal program are not delegable to the states because of the Federal government's special role in foreign policy matters and because of national concerns that arise with certain decisions. EPA does not delegate import/export functions. Under the RCRA regulations found in 40 CFR Part 262 EPA will continue to implement requirements for import/export functions. EPA does not delegate sections of 40 CFR part 268 because of the national concerns that must be examined when decisions are made under the following Federal Land Disposal Restriction requirements: 40 CFR 268.5—Procedures for case-by-case effective date extensions; 40 CFR 268.6—''No migration'' petitions; 40 CFR 268.42(b)—applications for alternate treatment methods; and 40 CFR 268.44(a)–(g)—general treatment standard variances. Washington's state program has excluded these requirements from its state regulations and EPA will continue to implement these requirements. The Federal Land Disposal Restrictions governing site-specific variances, 40 CFR 268.44(h)–(m) are delegable to the states but the State program excluded the requirements of 40 CFR 268.44(i)–(m) from its state regulations. EPA will continue to implement these requirements. The state program is authorized under today's rulemaking, effective on the effective date of this rule, for its regulation equivalent to 40 CFR 268.44(h).

States are allowed to seek authorization for state requirements that are more stringent than federal requirements. EPA has authority to authorize and enforce those parts of a state's program EPA finds to be more stringent than the federal program. The following state regulations are more stringent than the federal provisions and are part of the State's authorized program:

Exports of Hazardous Waste (51 FR 28664, 8/8/86, Checklist 31): The State regulation WAC 173–303–220(1)(a), as applicable to U.S. shipments and U.S. sites, is more stringent than the federal requirements found at 40 CFR 262.41(a) because, as to those U.S. shipments and U.S. sites, the State program requires annual reporting whereas the federal rule requires biennial reporting.

Exception Reporting for Small Quantity Generators of Hazardous Waste (52 FR 35894, 9/23/87, Checklist 42): The State regulations WAC 173–303–210, 220 and 220(2)(a) are more stringent for exception reporting for generators of 100 to 1,000 kg/month because the state regulations require such generators to follow the same requirements as generators of greater than 1000 kg/month. The State is also more stringent at WAC 173–303–220(2)(d) because the State program can require a generator to submit exception reports in less time than the federal program if the generator endangers public health or the environment.

Corrective Action for Injection Wells (52 FR 45788, 12/1/87, Checklist 44C): The State's regulation for ''permit by rule,'' WAC 173–303–802(3), for injection wells is more stringent than the federal requirements 40 CFR 264.101, 270.60(b)(3)(i) and (b)(3)(ii) because the State program requires compliance with WAC 173–303–060, the use of notification and identification numbers. The State program's prohibition on the disposal of state-only extremely hazardous waste (EHW) in underground injection wells is a provision that is broader in scope than the federal program and is not authorized as part of this decision.

Treatability Studies Sample Exemption (53 FR 27290, 7/29/88, Checklist 49): The State's program has two provisions for which the State is more stringent than the federal requirements found at 40 CFR 261.4(e)(2)(vi) and 40 CFR 261.4(f). At WAC 173–303–071(3)(r)(ii)(F) and WAC 173–303–071(3)(s) the state requires annual rather than biannual reports. The State also has provisions at 173–303–071(3)(s)(xii) and (xiii) which are more stringent than federal requirements because they require the date, the words hazardous or dangerous waste and the major risks associated with the waste to be marked on each container. The State program's provision at 173–303–071(3)(r)(i)(D) is not considered more stringent but is a clarification consistent with the Federal rule 40 CFR 261.4(f)(10).

Delay of Closure Period for Hazardous Waste Management Facilities (54 FR 33376, 8/14/89, Checklist 64): The State's regulation WAC 173–303–610(3)(c)(ii)(A) is more stringent than the federal requirement found at 40 CFR 264.112(d)(2)(i) because it requires the owner or operator to continue to take steps to prevent threats to human health and the environment beyond those otherwise required by the federal regulation.

Toxicity Characteristic: Chlorofluorocarbon Refrigerants (56 FR 5910, 2/13/91, Checklist 84): The State's regulations, WAC 173–303–506(2) and (3), are more stringent than the federal requirement found at 40 CFR 261.4(b)(12) because the state program includes generator record keeping requirements and facility requirements.

Wood Preserving Listings (56 FR 30192, 7/1/99, Checklist 92): The State's regulation WAC 173–303–200(1)(b)(i) is more stringent than the Federal requirements found at 40 CFR 262.34(a)(1)(i) because of the following cross citations:

- At WAC 173–303–640(2), analog to 40 CFR 265.171, the State program requires the owner or operator to address leaks, spills and discharges into the environment and in emergencies;
- At WAC 173–303–640(3), the State program requires the owner or operator to label containers to identify the major risks associated with the contents of the container;
- The State program specifies at WAC 173–303–640(5), analog to 40 CFR 265.173, a minimum aisle space between containers and that a row of containers must be no wider than 2 drums;
- The State program requires at WAC 173–303–640(6), analog to 40 CFR 265.174, that an inspection log must be maintained;
- The State has particular requirements for incompatible wastes, WAC 173–303–640(10), for closure; and
- The State program has authority to require secondary containment.

The State's wording although different at WAC 173–303–640(8), analog to 40 CFR 265.176, is equivalent

to the federal program because the State requires that containers be stored in a manner equivalent to the Uniform Fire Code.

The State's regulation WAC 173–303–200(l)(b)(ii) is more stringent than the Federal requirements found at 40 CFR 262.34(a)(l)(ii), because of the following cross citations:

- WAC 173–303–640(2)(e) and WAC 173–303–640(3)(b) in the state program require scheduling integrity assessments;
- WAC 173–303–640(5)(d) and (e) provide additional protective requirements in the state program: WAC 173–303–640(5)(d) requires the operator to label tanks to identify the waste contained in the tank; WAC 173–303–640(5)(e) requires all tank systems that hold dangerous wastes that are acutely or chronically toxic by inhalation to be designed to prevent the escape of vapors, fumes or other emissions into the air;
- WAC 173–303–640(7)(d)(i) is more stringent than the Federal analog, 40 CFR 265.196(d) because the State program requires a facility to report, whichever is the less, any release greater than or equal to one pound, or the reportable quantity, while the federal regulation requires reporting only of releases that equal or exceed one pound;
- WAC 173–303–640(9)(b) is more stringent than the Federal analog at 40 CFR 265.198(b) because the State program requires that tanks be located in a manner equivalent either to the National Fire Protection Association's buffer zone requirements (the Federal requirement) or as required by State and local fire codes, whichever is more stringent; furthermore, the state program is also more stringent in its requirement for yearly inspections.

Land Disposal Restrictions (51 FR 40572, 11/7/86 and 52 FR 21010, 6/4/87, Checklist 34): The State regulation WAC 173–303–120(2)(a) is more stringent than the federal requirement found at 40 CFR 261.6(a)(3) as the state has additional requirements for recyclable materials: WAC 173–303–050 provides authority to take action for a discharge or a potential discharge or release into the environment, WAC 173–303–145 provides authority to require a responsible person to address spills and discharges into the environment. WAC 173–303–960 provides regulatory authority to address imminent and substantial endangerment to health or the environment. EPA has statutory authority to address imminent and substantial endangerment to health or the environment and does not consider this state regulation to be more stringent than EPA's existing statutory authority under the federal RCRA program. To the extent the state has authority to address imminent and substantial endangerment to health or the environment as a regulatory requirement under the state program directly applicable to the recyclable materials, EPA considers the State program to be equivalent to the federal program.

Pre-construction Ban (50 FR 28702, 7/15/85, Checklist 17M): The State is more stringent because it chose not to adopt the optional and less stringent federal requirement at 40 CFR 270.10(f)(3) for construction of TSCA PCB incineration.

Testing and Monitoring Activities (58 FR 46040, 8/31/93, Checklist 126): The State regulation WAC 173–303–910(4)(a) is more stringent than the federal requirement at 40 CFR 260.22(d)(1)(i) because the State does not exclude wastes that are considered hazardous under 40 CFR Part 261, but only has authority to exclude wastes that EPA has excluded under the petition process as hazardous wastes.

Carbamate Production Identification and Listing of Hazardous Waste (60 FR 7824, 2/9/95, amended at 60 FR 19165, 4/17/95 and at 60 FR 25619, 5/12/95 Checklist 140): The State is more stringent because it does not include the de minimus wastewater ''exclusions'' found in the federal program at 40 CFR 261.3(a)(2)(iv)(E), (F) and (G).

Universal Waste: General Provision (60 FR 25492, 5/11/95 Checklist 142A): The State is more stringent because it chose not to adopt a counting exclusion for hazardous waste managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10.

Dust Suppression (50 FR 28702, 7/15/85, Checklist 17G): The State regulation WAC 173–303–505(2)(d) is more stringent than the federal requirement at 40 CFR 266.23(b) because the State rule does not contain the exception for waste identified solely on the basis of ignitability. Therefore the State prohibits the use of waste or used oil or other material which is contaminated with dioxin or any other hazardous waste, including those wastes that are ignitable, for dust suppression or road treatment.

The State is not seeking authorization for the Standards for the Management of Waste Fuel and Used Oil for the Burning of these Materials in Boilers and Industrial Furnaces, 40 CFR 266.102 through 40 CFR 266.111. The State did not adopt these federal provisions as state law. EPA is implementing these BIF requirements in Washington State under EPA's HSWA authority.

States are not allowed to seek authorization for state requirements that are broader in scope than federal requirements. EPA does not have authority to authorize and enforce those parts of a state's program EPA finds to be broader in scope than the federal program. EPA has found the following state requirements to be broader in scope than the federal hazardous waste program and is not authorizing the following requirements as part of the State's authorized program: Mining Waste Exclusion II (55 FR 2322, 1/23/90 Checklist 71). The State analogs are broader in scope than the federal requirements, except for WAC 173–303–040 and WAC 173–303–180(3)(f) which are equivalent to the federal analogs 40 CFR 260.10 and 40 CFR 262.23(e) respectively, because the State has not adopted an analog to 40 CFR 261.4(b)(7)—exclusions for solid waste from the extraction, benefication, and processing of ores and minerals. The state's lack of an analog for the federal exclusion of mixtures of solid waste and hazardous waste which are hazardous based solely on a hazardous characteristic imparted to the waste as a result of a Bevill characteristic, 40 CFR 261.3(a)(2)(iii), is also broader in scope than the federal program.

Although State programs can be authorized where they are more stringent than the federal program, state programs cannot be authorized where they are less stringent. EPA finds the state regulations for spent antifreeze at WAC 173–303–120(3)(h) are less stringent than the federal provisions to the extent that the state program would construe characteristic spent antifreeze as a state-only waste. The effect of the State rule would be to exempt antifreeze that exhibits the toxicity characteristic from the requirements applicable to wastes exhibiting the toxicity characteristic. EPA has articulated its position in numerous rules that spent antifreeze exhibiting a characteristic may pose a threat to human health and the environment and requires generators and recyclers to comply with existing federal regulations with respect to characteristic hazardous waste. Antifreeze which exhibits the toxicity characteristic remains a hazardous waste under the State's authorized program. The direct impact of EPA's finding to generators and recyclers is that such persons are not exempted from the State's federally authorized requirements for antifreeze that exhibits the toxicity characteristic.

States sometimes make changes to their previously authorized programs

that result in a state regulation being found equivalent where the regulation may have been found more stringent at the time of initial authorization. On April 29, 1996, the State received final authorization for the federal dioxin wastes requirements, (50 FR 1978, January 14, 1985) and the definition of empty for dioxin residues in containers was determined to be more stringent than the federal program. The State has amended its definition of empty for dioxin residues in containers and is seeking reauthorization for this change. With today's rulemaking the State analog for definition of empty, found at WAC 173–303–160(2)(a), has been determined to be equivalent to the federal requirement found at 40 CFR 261.7(b)(1).

On April 29, 1996, the State received final authorization for the federal rule Amending Requirements for Hazardous Waste Incinerator Permits (54 FR 4286, January 30, 1989) and the state's analog, WAC 173–303–807(10) requirement for existing incinerator facilities to either conduct a trial burn or submit other information as specified in 40 CFR 270.19(a) or (c) before a permit can be issued to that facility, was determined to be more stringent than the federal program. The State has amended the more stringent requirement and is seeking reauthorization for this change. With today's rulemaking the State analog WAC 173–303–807(10) has been determined to be equivalent to the federal requirement found at 40 CFR 270.62(d).

H. Who Handles Permits After This Authorization Takes Effect?

Washington will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA Region 10 prior to final authorization of this revision will continue to be administered by EPA Region 10 until the issuance or re-issuance after modification of a State RCRA permit. Upon the effective date of the issuance, or re-issuance after modification to incorporate authorized State requirements of a State RCRA permit, those EPA-issued permit provisions which the State is authorized to administer and enforce will expire. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit. EPA will continue to implement and issue permits for HSWA requirements for which Washington is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. Section 1151) in Washington?

EPA's decision to authorize the Washington hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151, with the exception of the non-trust lands within the exterior boundaries of the Puyallup Indian Reservation (also referred to as the ''1873 Survey Area'' or ''Survey Area'') located in Tacoma, Washington. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151.

Effective October 22, 1998 (63 FR 50531, September 22, 1998) Washington's state program was authorized to implement the state authorized program on the non-trust lands within the 1873 Survey Area of the Puyallup Indian Reservation. The authorization did not extend to trust lands within the reservation. EPA retains its authority to implement RCRA on trust lands and over Indians and Indian activities within the 1873 Survey Area.

A complete discussion of the background for this authorization determination can be found in **Federal Register**s dated July 7, 1998 (63 FR 36652) for the proposed rule and an immediate final rule (63 FR 36587), August 21, 1998 to withdraw the immediate final rule in response to adverse comment (63 FR 44795), and September 22, 1998 to publish a response to comment and final rule granting authorization (63 FR 50531).

J. What is Codification and Is Epa Codifying Washington Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR Part 272. We reserve the amendment of 40 CFR Part 272, Subpart WW for this authorization of Washington's program until a later date.

K. Regulatory Analysis and Notices

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of 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.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Washington program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary Federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or

operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act 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 governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the Comptroller General

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

Compliance With Executive Order 12866

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

Compliance With Executive Order 12875

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 with 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.''

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from this action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

Compliance With Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' applies to any rule that: (1) the Office of Management and Budget determines is ''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 Executive Order 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

Compliance with Executive Order 13084

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 with consulting, Executive Order 13084 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.''

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Washington is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

Compliance With Executive Order 12612

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, 64 FR 43255 (August 10, 1999), which will take effect on November 2, 1999. In the interim, the current Executive Order

12612, 52 FR 41685 (October 30, 1987), on federalism still applies. This rule will not have a substantial direct effect on 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, as specified in Executive Order 12612. This rule simply approves the State of Washington's proposal to be authorized for updated requirements of the hazardous waste program that the state has voluntarily chosen to operate.

Paperwork Reduction Act

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

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 action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 271

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

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

Dated: September 24, 1999.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 99–25561 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6454–1]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action finalizes EPA's decision to grant authorization to the Commonwealth of Massachusetts for certain revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revisions addressed by this action include two rules promulgated by the Environmental Protection Agency: the Toxicity Characteristics (TC) Rule (including subsequent revisions to that rule) and the Universal Waste Rule (UWR). The Agency finds that the State's hazardous waste program revisions, except for a provision which relates to the TC Rule and exempts intact Cathode Ray Tubes (CRTs) from hazardous waste regulation, satisfy all of the requirements necessary to qualify for final authorization. Thus, the EPA is taking action to approve the authorization of Massachusetts for the UWR and the TC Rule for all wastes other than CRTs. At this time, EPA defers action relating to CRTs; however, the agency plans to address this issue in a future **Federal Register** document.

DATES: The approval of Massachusetts' program revisions shall become effective without further notice on October 12, 1999.

ADDRESSES: Copies of the Commonwealth of Massachusetts' revision application and related materials which support the basis for EPA's authorization decision (the ''Administrative Record'') are available for inspection and copying during normal business hours at the following addresses: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9:00 a.m. to 5:00 p.m., Telephone: (617) 292–5802 and EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114–2023, business hours: 8:30 a.m. to 5:00 p.m., Telephone: (617) 918–1990.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, EPA Region I, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; Telephone: (617) 918–1642.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made In This Rule?

1. Background

On January 8, 1998, Massachusetts submitted a final program revision application relating to the Satellite Accumulation Rule, UWR and TC Rule seeking authorization of its program revision in accordance with 40 CFR 271.21. On Septemer 30, 1998, the EPA granted authorization to the Massachusetts hazardous waste management program for the Satellite Accumulation Rule only and deferred a decision relative to the TC and UWR portions of the application due to the unresolved CRT issues (63 FR 52180).

2. The Proposed Rule

On February 24, 1999 EPA published in the **Federal Register** a proposed rule announcing its plan to authorize Massachusetts for the TC Rule and the UWR excluding those provisions which relate to CRTs (64 FR 9110). Also, at that time, the agency proposed to disapprove a provision of the Massachusetts hazardous waste regulations at 310 CMR 30.104(21) relating to CRTs. A forty-five (45) day extension to the thirty (30) day comment period of this proposal was requested by Massachuetts and granted in the **Federal Register** on March 24, 1999 (64 FR 14201) thereby extending the public comment period from March 26, 1999 to May 10, 1999.

3. Recent Developments

Since the publication of the proposed disapproval, the EPA and Massachusetts Department of Environmental Protection

(''DEP'') have discussed a new regulatory approach with respect to CRTs. The DEP currently is seeking input from its Hazardous Waste Advisory Committee regarding this new approach.

4. Comments to the Proposed Rule

EPA has received comments on the proposed rule **Federal Register** document from various sources, all of which relate solely to CRTs. The EPA is not responding to these comments at this time. Rather, if the DEP revises its regulations to adopt the new approach, the EPA plans to publish a new proposed rule in the **Federal Register** prior to any final approval, inviting public comment on the new approach. If, on the other hand, the EPA and DEP do not reach final agreement on the CRT issue, the EPA will publish a future final **Federal Register** notice setting out its final decision on the current DEP regulations and will respond to all comments that have been filed at that time. No final action regarding the CRT issue is being taken by the EPA at this time.

5. The Decision

Today's action finalizes the Agency's approval for final authorization of the Commonwealth of Massachusetts for program revisions which cover the TC Rule and UWR except as they relate to CRTs. We conclude that Massachusetts' application to revise its authorized program, excluding provisions which relate to the regulation of CRTs, meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant the Commonwealth of Massachusetts final authorization to operate its hazardous waste program with the changes described in the authorization application except for those that relate to CRTs. Massachusetts has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will continue to implement those requirements and prohibitions in Massachusetts for which the state is not authorized, including issuing permits for those provisions until the State is granted authorization to do so.

6. Technical Corrections

Additionally, EPA is making a technical correction to a provision referenced in its immediate final rule published in the **Federal Register** on September 30, 1998 (effective November 30, 1998) which authorized the State for the Satellite Accumulation Rule (63 FR 52180). This technical correction is described in section G below.

C. What is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Massachusetts subject to RCRA will now have to comply with the newly authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. The Commonwealth of Massachusetts has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA also retains its full authority under RCRA sections 3007, 3008, 3013, and 7003.

This action does not impose additional requirements on the regulated community because the state regulations for which Massachusetts is being authorized by today's action have already been in effect under state law, and are not changed by today's action.

D. What Has Massachusetts Previously Been Authorized For?

Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344) to implement its base hazardous waste management program. We granted authorization for changes to their program regarding satellite accumulation on September 30, 1998, effective November 30, 1998 (63 FR 52180).

E. What Changes Are We Authorizing With Today's Action?

On January 8, 1998 the Commonwealth of Massachusetts submitted a final program revision application seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision that Massachusetts' hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant the Commonwealth of Massachusetts final authorization for the following program changes which cover the UWR and TC Rule except as they relate to CRTs:

The TC Rule was promulgated on March 29, 1990 (55 FR 11798) under the authority of the Hazardous and Solid Waste Amendments (HSWA) to RCRA and refines and expands EPA's Extraction Procedure (EP) Toxicity Characteristics Rule promulgated on May 19, 1980 (49 FR 33084). On May 11, 1995 (60 FR 25492) EPA promulgated the UWR which contains new streamlined hazardous waste management regulations governing the collection and management of certain widely generated wastes (batteries, pesticides and thermostats) known as universal wastes. In addition, the regulation contains a provision for a petition process through which additional wastes can be added.

The specific RCRA program revisions for which EPA authorizes the Commonwealth of Massachusetts are listed in the table below. The Federal requirements in the table are identified by their checklist numbers and rule descriptions. The following abbreviations are used in defining analogous state authority: MGL = Massachusetts General Laws; CMR = Code of Massachusetts Regulations.

Description of Federal Requirement and Checklist Reference Number	Analogous State Authority [1]
Consolidated Checklist for the Toxicity Characteristic Revisions as of June 30, 1994 (74) Toxicity Characteristic Revisions: 55 FR 11798, 3/29/90 as amended on 6/29/90 55 FR 26986; (80) Hydrocarbon Recovery Operations: 55 FR 40834, 10/5/90 as amended on 2/1/91, 56 FR 3978 as amended on 4/2/91, 56 FR 13406, optional rule (MA is not seeking authorization for this provision); (84) Chlorofluoro Refrigerants: 56 FR 5910, 2/13/91, optional rule, (MA is not seeking authorization for this provision); (108) Toxicity Characteristics Revision; Technical Correction: 57 FR 30657, 7/10/92; (117B) Toxicity Characteristic Revision: 57 FR 23062, 6/1/92, (correction not applicable; MA is not seeking authorization for this provision); (119) Toxicity Characteristic Revision, TCLP: 57 FR 55114, 11/24/92, optional rule (MA is not seeking authorization for this provision).	MGL c 21C §§ 4 and 6, enacted 11/9/79; 310 CMR 30.099(25) adopted 11/9/90, 30.104(13) adopted 10/17/97, 30.105 adopted 11/17/95, 30.125B adopted 11/9/90, 30.130 adopted 11/9/90, and 30.155B adopted 11/9/90 and amended 10/17/97. (The Massachusetts regulatory citations above are approved except as they relate to CRTs.)
Universal Waste Rule Checklists 142 A–E (142A) Universal Waste Rule: General Provisions, 60 FR 25492–25551, 5/11/95; (142B) Universal Waste Rule: Specific Provisions for Batteries, 60 FR 25492–25551, 5/11/95; (142C) Universal Waste Rule: Specific Provisions for Pesticides, 60 FR 25492–25551, 5/11/95; (142D) Universal Waste Rule: Specific Provisions for Thermostats, 60 FR 25492–25551, 5/11/95; (143E) Universal Waste Rule: Petition Provisions to Add a New Universal Waste, 60 FR 25492 25492–25551, 5/11/95;	MGL c 21C §§ 4 and 6, enacted 11/9/79 and MGL c 21E § 6, enacted July 20, 1992; 310 CMR 30.010, 30.130, 30.143(2), 30.340(1), 30.351(2)(b)6 and 30.351(3), 30.353(2)(b)5 and 30.353(3), 30.392(8), 30.393(6), 30.501(2)(e), 30.601(2)(e), 30.801(14), and 30.1000 adopted on 10/17/97.

[1] The Commonwealth of Massachusetts' provisions are from the Code of Massachusetts Regulations, 310 CMR 30.000, Hazardous Waste Regulations, adopted October 17, 1997.

The specific State regulation not covered in this action is 310 CMR 30.104(21) which falls under 310 CMR 30.104, ''Wastes Not Subject 310 CMR 30.000'' and identifies intact CRTs as a waste not subject to Massachusetts' hazardous waste regulations. EPA is limiting its approval of the State's TC Rule regulations to all wastes except CRTs.

F. Where Are the Revised State Rules Different From the Federal Rules?

Under the provisions of the State's UWR program, there are several differences related to the way in which universal wastes are regulated. First, as allowed by EPA's UWR (40 CFR part 273, subpart G), the State program includes additional waste streams; i.e., mercury-containing devices and mercury containing lamps are included as universal wastes (310 CMR 30.1081). The inclusion of these additional wastes, however, is viewed as equivalent to the federal rule rather than broader in scope (or less stringent) as the federal rule allows a petition process by which additional wastes may be added. Massachusetts has adopted a rulemaking process rather than a petition process to include additional wastes under its universal waste program, a provision the EPA also considers equivalent.

Related to the coverage of batteries under the UWR, Massachusetts, as required by The Mercury-Containing and Rechargeable Battery Management Act of May 13, 1996 (''The Battery Act''), (Public Law 104–142), has implemented state requirements governing the collection, storage and transportation of batteries which are identical to EPA's UWR requirements. There are differences from the federal requirements regarding how Massachusetts regulates batteries, but the EPA has determined that they do not concern the ''collection, storage or transportation'' of batteries, where the State is required to be identical. For example, the EPA has determined that the State's requirement regarding site closure (described below) is not within what is preempted by the Battery Act. The differences, and the reasons why the EPA has determined that there is no preemption, are set forth in the EPA's Administrative Record, which is available for public review.

We consider the following State requirements to be more stringent than the Federal requirements:

- 310 CMR 30.155B(10) requires quality assurance/quality control procedures (QA/QC) in the State's TCLP test which are more stringent than the analogous federal procedures as the State has not adopted EPA's changes to QA/QC procedures under the TC Rule (40 CFR part 261, appendix II, 8.2, 8.4 and 8.5).
- 310 CMR 30.1033(4), 30.1043(5) and 30.1061 cover state closure requirements which specifies that handlers who cease operations shall comply with state closure requirements at 310 CMR 30.689, which require removal of waste and site decontamination. This provision covers all of the State's universal wastes (including batteries).
- 310 CMR 30.1043(a), (b) require large quantity handlers of universal waste (other than batteries) to notify the State of their universal waste activity even though they may have previously provided notification for hazardous waste activity; the federal requirement does not require such re-notification.
- 310 CMR 30.1033(3) requires small quantity generators to submit a change of status request in anticipation of accumulating 5,000 kg or more of universal waste (other than batteries); there is no such federal requirement.
- 310 CMR 30.1010 does not allow transfer facilities (except for batteries) as defined in 40 CFR 273.6.
- 310 CMR 30.1034(3)(b)(7) requires that ampules, once removed from thermostats, be fully regulated as a hazardous waste. Under the federal UWR program, ampules removed from thermostats are subject to the less restrictive UWR management standards

unless they are leaking and exhibit a characteristic of hazardous waste, in which case they must be managed in accordance with EPA's hazardous waste requirements (40 CFR 273.13(c)(3) and 273.33(c)(3)).

These requirements are part of Massachusetts' authorized program and are federally enforceable.

We also consider the following State requirements go beyond the scope of the Federal program:

- 310 CMR 30.1034(5)(c)(2) and 30.1044(5) requires dismantling/crushing operations of small and large quantity generators who recycle crushed fluorescent bulbs to obtain a State recycling permit. There is no federal permitting requirement for recycling activities per se, although storage prior to recycling could trigger the federal part B permit requirements of 40 CFR part 264.
- 310 CMR 30.392(8) and 30.393(6). The State UWR program also has a provision regarding the household hazardous waste collection events in which universal wastes may be collected. The regulation of this event is a broader-in-scope provision as there is no analogous federal component. However, the EPA also has determined that these State provisions (insofar as they cover universal wastes) do not result in the State program being non-equivalent to the federal program under RCRA or non-identical under The Battery Act.

Broader-in-scope requirements are not part of the authorized program and EPA does not enforce them. Although sources must comply with these requirements in accordance with state law, they are not federal RCRA requirements.

G. What Technical Corrections Are Addressed by Today's Action?

On September 30, 1998, EPA published its decision to authorize Massachusetts for revisions that relate to EPA's Satellite Rule (see 63 FR 52180). In the regulatory crosswalk table of that notice, EPA cited an incorrect date of 12/29/84 on which EPA promulgated its Satellite Rule at 49 FR 49568. Note, this document corrects the date cited in the regulatory crosswalk on which EPA's Satellite Rule was promulgated to read 12/20/84.

H. Who Handles Permits After This Authorization Takes Effect?

Massachusetts will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Massachusetts is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. Section 115) In Massachusetts?

Massachusetts is not authorized to carry out its hazardous waste program in Indian country within the State. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

J. What Is Codification and Is EPA Codifying Massachusetts' Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We are today authorizing, but not codifying, the enumerated revisions to the Massachusetts program. We reserve the amendment of 40 CFR part 272, subpart W for the codification of Massachusetts' program until a later date.

K. Regulatory Analysis and Notices

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of 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.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Massachusetts' program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act 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 governmental jurisdictions). This analysis is

unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA.

The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the Comptroller General

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

Compliance With Executive Order 12866

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

Compliance With Executive Order 12875

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 with 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.''

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from this action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 (64 FR 43255, August 10, 1999) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 (52 FR 41685, October 30, 1987) on federalism still applies. This rule will not have substantial direct effect on 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, as specified in Executive Order 12612 because this rule affects only one State. In addition, this rule simply approves the State's proposal to be authorized for updated requirements in the hazardous waste program that the state has voluntarily chosen to operate. Finally, as a result of this action, for provisions enacted pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA), those newly authorized provisions of the State's program now apply in Massachusetts in lieu of the equivalent Federal program provisions. Affected parties are subject only to those authorized state program provisions, as opposed to being subject both to the Federal and State program provisions.

Compliance With Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' applies to any rule that: (1) The Office of Management and Budget determines is ''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 concern environmental health or safety risks that the EPA has reason to believe may have a disproportionate effect on children. Rather, this rule simply applies previously established health and safety requirements with respect to the Massachusetts state RCRA program.

Compliance with Executive Order 13084

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 with consulting, Executive Order 13084 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.''

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments.

Massachusetts is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

Paperwork Reduction Act

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

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 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 action does not involve imposing federal technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 271

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

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

Dated: September 29, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–26332 Filed 10–8–99; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AC89

Disaster Assistance; Redesign of Public Assistance Program Administration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: We (FEMA) have redesigned the Public Assistance Program to provide money to applicants more quickly and to make the application process simpler than before. Specific changes to regulations rename documents, define terms, adjust responsibilities, and edit the rule in a way that we hope makes the rule easier to read and understand. This rule reflects changes that we need to put the new Public Assistance Program into effect.

EFFECTIVE DATE: This rule is effective on November 12, 1999.

FOR FURTHER INFORMATION CONTACT: James D. Duffer, Federal Emergency Management Agency, room 713, 500 C Street SW., Washington DC 20472, (202) 646–3532, or (email) *james.duffer@fema.gov*.

SUPPLEMENTARY INFORMATION: On November 20, 1998, we published an interim final rule on the redesigned Public Assistance Disaster Grant Program (Project Administration) in the **Federal Register** at 63 FR 64423. We invited comments for 45 days ending on January 4, 1999. We received eight sets of comments: Five from States; one from an organization; and, one from an individual. Comments varied widely. One commenter objected to changing the regulations; some thought that certain amended language required more clarification; some proposed additions to the amendatory language; and, some supported the rule as written.

We have carefully considered the comments and performed clarifying amendments to § 206.201, § 206.202, § 206.204, § 206.205, and § 206.208 that are technical in nature and do not require republication of the rule for comment. Specifically, within § 206.201 we added that a scope of work and cost estimate for a project are documented on a Project Worksheet. We amended § 206.202 to explain the State's responsibility better and to make the rule easier to understand in this regard. We replaced the term ''Damage Survey Report'' with ''Project Worksheet'' at § 206.204. In § 206.205 we amended the section to provide that final payment of the Federal share is made to the Grantee upon approval of the Project Worksheet, rather than the project. And in § 206.208 we eliminated the damage survey report requirement for the implementation of direct Federal assistance and replaced it with a requirement for a mission assignment letter to the appropriate federal agency. Following is a summary of the comments and responses.

Several States commented that the proposed amendments to the governing regulations were generally acceptable. Some suggested that additional changes to the rule were necessary to explain the meaning of the redesigned process better for improving the delivery of the Public Assistance Program. We believe that the comments have merit and where terminologies are not consistent we are making additional changes to define terms better and to adjust responsibilities as follows:

- Several commenters noted that we might have omitted State participation in the preparation of Project Worksheets from the responsibilities of the Grantee, which could result in misinterpretations with other sections of the rule. By way of explanation, we encourage applicants to formulate their own small projects and to prepare Project Worksheets. For those unable to do so, we will prepare Project Worksheets for small projects. We also prepare Project Worksheets for all large projects. The State is responsible for providing assistance to the applicant and FEMA, as appropriate, for the purposes of identifying and validating small and large projects. We edited § 206.202(b)(2), § 206.202(d)(1)(i) and § 206.228(a)(2)(i) to explain the State's responsibility better and make the rule easier to understand in this regard.
- One commenter observed that § 206.202(d)(1)(ii) of the interim rule mistakenly omitted the word ''substantive''. We corrected this section to include the word ''substantive'' in the text of the rule. Our intent (as we noted under *What Changes Are We Making to the Rule*?) is that the first substantive meeting (known as the Kickoff Meeting) is between the applicant, the Public Assistance Coordinator (PAC) and the Liaison (a State supplied position) when possible. The PAC contacts the subgrantee to arrange the Kickoff Meeting. At this meeting a subgrantee's damages will be discussed, needs assessed, and a plan of action put in place. The PAC will go over what we expect of the subgrantee and will provide detailed instructions on what to do and how to do it. The State Liaison will discuss State requirements for administering the programmatic and

grant management requirements of the Public Assistance Program. This meeting is also the place to bring any questions or concerns that the subgrantee may have about how the public assistance process works.

- One commenter said that a change should be made to the Payment of Claims for small projects. Under the previous process for small projects, final payment of the Federal share was made to the Grantee upon project approval (each project was separately identified on a Damage Survey Report). The comment has merit because the redesigned process approves all small projects listed on a Project Worksheet as a single grant. We edited § 206.205(a) to say that we make final payment of the Federal share of these projects to the Grantee when we approve the Project Worksheet.
- Another commenter proposed a change to eliminate the term DSR under § 206.208(c)(1), Direct Federal Assistance. In the past, the Regional Director had to prepare a damage survey report establishing the scope and estimated cost of eligible work before execution of the work by another Federal agency that had the mission assignment to provide direct Federal assistance. This requirement was a pre-Federal Response Plan activity. We edited this section to eliminate the DSR requirement. However, the mission assignment letter to the agency providing direct Federal assistance will define the eligible scope of work, the estimated cost of the eligible work and the billing frequency.
- Another commenter observed for § 206.204(e) that we needed to eliminate the term DSR (Damage Survey Report) and replace it with PW (Project Worksheet). We made that change.

We also received comments that were unrelated to matters of terminology or consistency in the interim rule. Following is our summary of and response to these comments:

- A commenter observed that the grantee and subgrantee must be trained before a disaster and that we should provide adequate funding for training and publications to implement the Public Assistance Program properly. In response, our priority is to train FEMA staff to better deliver the redesigned Public Assistance Program. Although we do not propose a formal training program for States and applicants, we are providing educational and training materials in a variety of forms and delivery methods to educate States and applicants. To prepare States to train applicants we have provided limited training to the States (e.g. train-the-trainer classes). We are relying on States and locals to avail themselves of the training materials mounted on our web site that includes clearly marked areas for Public Assistance Program information and publications.
- One commenter expressed that there could be confusion with the terms ''we'' and ''you'' as used throughout the text of the proposed language. We have considered the possibility and agree. To reduce the potential for confusion, terminology changes throughout text of the proposed language have been made to reflect the term's ''Grantee'' and ''subgrantee'' as appropriate.
- Another commenter noted that allowable administrative costs for subgrantees are insufficient to complete program responsibilities and said the allowance should be increased. The statutory allowance to assist in the cost of requesting, obtaining and administering Federal assistance is outside the scope of the changes to the regulations.
- A commenter asserted that FEMA should retain the requirement to explain in writing to a State Program Administrator any delays beyond 45 days in the obligation of Federal funds. We appreciate the comment but we do not take that view. We keep our obligation to explain delays but remove the requirement for written explanation. The program relies greatly on open communication, which we effect in a variety of ways. For instance, soon after the declaration, FEMA and State officials will meet to develop a public assistance recovery strategy, which will address FEMA and State staffing plans. As other examples, State staff assigned to the Resource Pool may assist in recovery efforts by providing technical assistance to applicants requesting assistance with their small project formulation activities, by validating an applicant's small projects, by assisting in the formulation of large projects, or by reviewing an applicant's case management file. Through the Federal, State and local partnership all participants will know why delays greater than 45 days in obligating Federal funds may occur both through open communication and through the review of an applicant's case management file. We believe that it would be redundant to duplicate this information in writing separately, when the same information is available from either the Public Assistance Coordinator (PAC), the State Liaison, or an applicant's case management file.
- Another commenter observed that we had deleted § 206.202(f). We appreciate the comment and note that the final rule retains that section in its original form.
- A commenter stated that the redesigned Public Assistance Program should not be implemented until we closed out one of the ''pilot'' disasters and audited the program result. We appreciate the comment but we do not take that view. State and local officials who participated in the pilot enthusiastically endorsed the redesigned process. Changes to the regulations incorporate the lessons that we learned from the pilot. The evaluation of program performance is an essential part of the redesigned program. An overall survey program began in late 1997 specifically for this purpose. We conducted an initial survey, *Public Assistance Program Evaluation and Customer Satisfaction Baseline Survey*, from December 1997 through February 1998 and we published results of the survey in April 1998. The Baseline Survey revealed that, while a majority of respondents were satisfied with the overall Public Assistance (PA) Program and its major components, customer satisfaction levels were below our performance expectations. In response, our headquarters and regional staffs designed performance standards and targets for the PA Program to make the Program a more customer-responsive and performance-based operation. We published the standards in June 1998 in *Public Assistance Program Performance Standards.* We are now conducting a series of Post-Disaster Surveys to evaluate the effectiveness of new processes for the delivery of financial assistance and services to customers.
- Another commenter observed that § 206.228(a)(2)(i)(A–D) had been left out of the November 20, 1998 **Federal Register** notice. We appreciate the comment and when we found the error we published a correction in the **Federal Register**, 64 FR 41827, August 2, 1999, to ensure that we retain the subparagraphs. They are in the final rule.
- A commenter expressed the desire to have **Federal Register** notices appear on the FEMA Website. We believe the comment has merit and have asked our Office of the General Counsel to post all FEMA-generated **Federal Register** publications on the FEMA Website.

National Environmental Policy Act

Our regulations categorically exclude this rule from the preparation of environmental impact statements and environmental assessments as an administrative action in support of normal day-to-day grant activities. We have not prepared an environmental assessment or an environmental impact statement.

Executive Order 12866, Regulatory Planning and Review

We do not expect this rule (1) to affect adversely the availability of disaster assistance funding to small entities, (2) to have significant secondary or incidental effects on a substantial number of small entities, or (3) to create any additional burden on small entities.

As Director I certify that this rule is not a significant regulatory action within the meaning of section 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, and that it attempts to adhere to the regulatory principles set forth in E.O. 12866. The Office of Management and Budget has not reviewed this rule under E.O. 12866.

Paperwork Reduction Act

This rule does not contain a collection of information and therefore is not subject to the provisions of the Paperwork Reduction Act of 1995.

Executive Order 12612, Federalism

In publishing this rule, we considered the President's Executive Order 12612 on Federalism. This rule makes no changes in the division of governmental responsibilities between the Federal government and the States. Grant administration procedures under 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, remain the same. We have not prepared a Federalism assessment.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform, dated October 25, 1991, 3 CFR, 1991 Comp., p. 359.

Congressional Review of Agency Rulemaking

We have submitted this final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Pub. L. 104–121. The rule is not a ''major rule'' within the meaning of that Act. It is an administrative action in support of normal day-to-day activities. It does not result in nor is it likely to result in an annual effect on the economy of $100,000,000 or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have ''significant adverse effects'' on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

This final rule is exempt (1) from the requirements of the Regulatory Flexibility Act, and (2) from the Paperwork Reduction Act. The rule is not an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4. It does not meet the $100,000,000 threshold of that Act, and any enforceable duties are imposed as a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

List of Subjects in 44 CFR Part 206

Disaster assistance, Public assistance.

Accordingly, the interim rule published at 63 FR 64425, Nov. 20, 1998, amending 44 CFR part 206 is adopted as final with the following changes:

PART 206—DISASTER ASSISTANCE

1. The authority citation for part 206 continues to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Revise § 206.200(b) to read as follows:

§ 206.200 General.

* * * * *

(b) *What policies apply to FEMA public assistance grants?* (1) The Stafford Act requires that we deliver eligible assistance as quickly and efficiently as possible consistent with Federal laws and regulations. We expect the Grantee and the subgrantee to adhere to Stafford Act requirements and to these regulations when administering our public assistance grants.

(2) The regulations entitled ''Uniform Requirements for Grants and Cooperative Agreements to State and Local Governments,'' published at 44 CFR part 13, place requirements on the State in its role as Grantee and gives the Grantee discretion to administer federal programs under their own procedures. We expect the Grantee to:

(i) Inform subgrantees about the status of their applications, including notifications of our approvals of Project Worksheets and our estimates of when we will make payments;

(ii) Pay the full amounts due to subgrantees as soon as practicable after we approve payment, including the State contribution required in the FEMA-State Agreement; and

(iii) Pay the State contribution consistent with State laws.

3. Amend section § 206.201 by revising the heading and the definitions of *project* and *project approval* in paragraphs (i) and (j) to read as follows:

§ 206.201 Definitions used in this subpart.

* * * * *

(i) A *project* is a logical grouping of work required as a result of the declared major disaster or emergency. The scope of work and cost estimate for a project are documented on a Project Worksheet (FEMA Form 90–91).

(1) We must approve a scope of eligible work and an itemized cost estimate before funding a project.

(2) A project may include eligible work at several sites.

(j) *Project approval* means the process in which the Regional Director, or designee, reviews and signs an approval of work and costs on a Project Worksheet or on a batch of Project Worksheets. Such approval is also an obligation of funds to the Grantee.

* * * * *

4. Revise § 206.202 to read as follows:

§ 206.202 Application procedures.

(a) *General.* This section describes the policies and procedures that we use to process public assistance grants to States. Under this section the State is the Grantee. As Grantee you are responsible for processing subgrants to applicants under 44 CFR parts 13, 14, and 206, and your own policies and procedures.

(b) *Grantee.* You are the grant administrator for all funds provided under the Public Assistance grant program. Your responsibilities under this section include:

(1) Providing technical advice and assistance to eligible subgrantees;

(2) Providing State support for project identification activities to include small and large project formulation and the validation of small projects;

(3) Ensuring that all potential applicants are aware of available public assistance; and

(4) Submitting documents necessary for the award of grants.

(c) *Request for Public Assistance (Request).* The Grantee must send a completed *Request* (FEMA Form 90–49) to the Regional Director for each applicant who requests public assistance. You must send *Requests* to the Regional Director within 30 days after designation of the area where the damage occurred.

(d) *Project Worksheets.* (1) An applicant's authorized local

representative is responsible for representing the applicant and for ensuring that the applicant has identified all eligible work and submitted all costs for disaster-related damages for funding.

(i) We or the applicant, assisted by the State as appropriate, will prepare a Project Worksheet (FEMA Form 90–91) for each project. The Project Worksheet must identify the eligible scope of work and must include a quantitative estimate for the eligible work.

(ii) The applicant will have 60 days following its first substantive meeting with us to identify and to report damage to us.

(2) When the estimated cost of work on a project is less than $1,000, that work is not eligible and we will not approve a Project Worksheet for the project. Periodically we will review this minimum approval amount for a Project Worksheet and, if needed, will adjust the amount by regulation.

(e) *Grant approval.* (1) Before we obligate any funds to the State, the Grantee must complete and send to the Regional Director a Standard Form (SF) 424, Application for Federal Assistance, and a SF 424D, Assurances for Construction Programs. After we receive the SF 424 and SF 424D, the Regional Director will obligate funds to the Grantee based on the approved Project Worksheets. The Grantee will then approve subgrants based on the Project Worksheets approved for each applicant.

(2) When the applicant submits the Project Worksheets, we will have 45 days to obligate Federal funds. If we have a delay beyond 45 days we will explain the delay to the Grantee.

(f) *Exceptions.* The following are exceptions to the procedures and time limitations outlined in paragraphs (c), (d), and (e) of this section.

(1) *Grant applications.* An Indian tribe or authorized tribal organization may submit a SF 424 directly to the RD when the Act authorizes assistance and a State is legally unable to assume the responsibilities that these regulations prescribe.

(2) *Time limitations.* The RD may extend the time limitations shown in paragraphs (c) and (d) of this section when the Grantees justifies and makes a request in writing. The justification must be based on extenuating circumstances beyond the grantee's or subgrantee's control.

5. Amend § 206.204 by revising paragraph (e) to read as follows:

§ 206.204 Project performance.

* * * * *

(e) *Cost Overruns.* (1) During the execution of approved work a subgrantee may find that the actual project costs exceed the approved Project Worksheet estimates. Such cost overruns normally fall into the following three categories:

(i) Variations in unit prices;

(ii) Change in the scope of eligible work; or

(iii) Delays in timely starts or completion of eligible work.

(2) The subgrantee must evaluate each cost overrun and, when justified, submit a request for additional funding through the Grantee to the RD for a final determination. All requests for the RD's approval will contain sufficient documentation to support the eligibility of all claimed work and costs. The Grantee must include a written recommendation when forwarding the request. The RD will notify the Grantee in writing of the final determination. FEMA will not normally review an overrun for an individual small project. The normal procedure for small projects will be that when a subgrantee discovers a significant overrun related to the total final cost for all small projects, the subgrantee may submit an appeal for additional funding in accordance with § 206.206, within 60 days following the completion of all its small projects.

* * * * *

6. Amend § 206.205 by revising paragraph (a) to read as follows:

§ 206.205 Payment of Claims.

(a) *Small Projects.* Final payment of the Federal share of these projects will be made to the Grantee upon approval of the Project Worksheet. The Grantee will make payment of the Federal share to the subgrantee as soon as practicable after Federal approval of funding. Before the closeout of the disaster contract, the Grantee must certify that all such projects were completed in accordance with FEMA approvals and that the State contribution to the non-Federal share, as specified in the FEMA-State Agreement, has been paid to each subgrantee. Such certification is not required to specify the amount spent by a subgrantee on small projects. The Federal payment for small projects shall not be reduced if all of the approved funds are not spent to complete a project. However, failure to complete a project may require that the Federal payment be refunded.

* * * * *

7. Amend § 206.208 by revising paragraph (c)(1) to read as follows:

§ 206.208 Direct Federal Assistance.

* * * * *

(c) *Implementation.* (1) If the RD approves the request, a mission assignment will be issued to the appropriate Federal agency. The mission assignment letter to the agency will define the scope of eligible work, the estimated cost of the eligible work and the billing period frequency. The Federal agency must not exceed the approved funding limit without the authorization of the RD.

* * * * *

8. Amend § 206.228 by revising paragraph (a)(2)(i) to read as follows:

§ 206.228 Allowable costs.

* * * * *

(a) * * *

(1) * * *

(2) *Statutory Administrative Costs*—(i) *Grantee.* Under section 406(f)(2) of the Stafford Act, we will pay you, the State, an allowance to cover the extraordinary costs that you incur to formulate Project Worksheets for small and large projects, to validate small projects, to prepare final inspection reports, project applications, final audits, and to make related field inspections by State employees. Eligible costs include overtime pay and per diem and travel expenses, but do not include regular time for your State employees. The allowance to the State will be based on the following percentages of the total amount of Federal assistance that we provide for all subgrantees in the State under sections 403, 406, 407, 502, and 503 of the Act:

(A) For the first $100,000 of total assistance provided (Federal share), three percent of such assistance.

(B) For the next $900,000, two percent of such assistance.

(C) For the next $4,000,000, one percent of such assistance.

(D) For assistance over $5,000,000, one-half percent of such assistance.

* * * * *

Dated: October 1, 1999.

James L. Witt,

Director.

[FR Doc. 99–26352 Filed 10–8–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[GC Docket No. 96–55; FCC 99–262]

Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission denies reconsideration of its decision amending its rules concerning the treatment of confidential information submitted to the Commission. It also makes five technical amendments to its Freedom of Information Act-related rules. The amended rules provide the General Accounting Office with more expedited access to confidential information submitted to the Commission. Another amendment clarifies that if a request for confidentiality is denied, the documents will not be disclosed until the Commission disposes of an application for review or a court acts on a motion for stay. The third amendment permits third party owners of materials subject to confidentiality disputes to participate in the proceeding. Another rule amendment permits parties seeking confidential treatment of materials to reply to oppositions to requests for confidentiality.

DATES: Effective October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Laurence H. Schecker, Office of General Counsel, (202) 418–1720.

SUPPLEMENTARY INFORMATION:

1. The Commission has under consideration a petition for reconsideration filed by MCI WorldCom, Inc. (MCIW), of our decision setting out our general policies governing the handling of confidential information. *In the Matter of Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission,* 63 FR 44161 (August 18, 1998); 13 FCC Rcd 24816 (1998) (*Report and Order*). MCIW seeks rule changes that would restrict the ability of a submitting party to seek confidential treatment of tariff cost support data and that would allow access to confidential information pursuant to a protective order while a denial of confidentiality was being appealed to the Commission. We deny MCIW's petition. In addition, we amend the rules to ensure that the General Accounting Office (GAO) has more efficient access to confidential materials, consistent with its statutory authority, and to make minor technical changes to the confidentiality portions of our Freedom of Information Act (FOIA) regulations.

2. *Disclosure to the GAO.* Section 0.442 of our Rules, 47 CFR 0.442, along with 44 U.S.C. 3510, governs disclosure of records to other federal government agencies (but not to Congress, see 47 CFR 0.442(e)). Section 0.442 currently provides that information submitted to the Commission in confidence will be disclosed to other federal agencies as long as the Commission has not given specific assurances against such disclosure, the requesting agency has established a legitimate need for the information, the confidentiality of the information will be maintained by the requesting agency, and disclosure is not prohibited by the Privacy Act or other law. 47 CFR 0.442(b). A party who submits confidential information to the Commission is notified at the time the records are requested by another federal agency and may oppose the requests. No notice is provided, however, if notice will unduly interfere with law enforcement activities, in which case notice is provided once the potential for interference is eliminated. 47 CFR 0.442(d)(1), (2). If the party who submitted the confidential information does not object, the information is provided to the requesting federal agency. 47 CFR 0.442(d)(3). If disclosure is opposed, and the Commission decides to provide the information to the requesting agency, the submitting party is afforded 10 working days to seek a judicial stay. 47 CFR 0.442(d)(4).

3. Recently, the Commission has received numerous requests for documents from GAO. The 10-day notice procedures of section 0.442 have resulted in unnecessary delay when GAO requests information that is deemed confidential by the submitting party. We do not believe this notice period is necessary, as GAO is required under its own statute, 31 U.S.C. 716(e), to maintain the confidentiality of confidential information that it obtains from the Commission. Moreover, the Commission is obligated by law to allow GAO access to its records. See 31 U.S.C. 716(a). Given GAO's undisputed statutory authority, in our experience the 10-day period has merely resulted in delaying GAO's ability to gain access to requested information. We will therefore amend section 0.442(e) to provide that the advance notification requirement does not apply to requests from the GAO, although we will continue to provide notice that GAO has been afforded access to the documents. We find good cause that this rule change may be made without notice and comment because it is more consistent with Congress' clear intent that GAO be afforded unimpeded access to Commission records, and thereby better serves the public interest. See 5 U.S.C. 553(b)(B). For the same reason, we will make this change effective upon publication in the **Federal Register**. See 5 U.S.C. 553(d)(3).

4. *Technical Amendments to the Rules.* We take this opportunity to make several minor procedural amendments to our confidentiality regulations. Section 0.459(g) will be modified to clarify that documents will not be disclosed until the Commission disposes of any application for review of the order denying confidentiality and, if a judicial stay of that order is sought, until the court disposes of the motion for stay. This is consistent with out current practice. In addition, in the *Report and Order* we indicated that we would amend section 0.459 to permit third party owners of materials subject to confidentiality disputes to participate in the proceeding resolving the confidentiality issue, but by oversight section 0.459 was not so amended. Section 0.459 will be amended accordingly and corresponding changes will be made to section 0.461. We also believe that the rules should be amended to make clear that if a response in opposition to a confidentiality request is filed, the party requesting confidentiality should be able to reply. Section 0.459 will be amended to so provide. We will also correct the citation to the Paperwork Reduction Act (PRA) in 47 CFR 0.442(a) and (b), because the confidentiality section of the PRA was recodified as 44 U.S.C. 3510(b). These modifications are either nonsubstantive rule changes or procedural rules that do not require notice and comment under the Administrative Procedure Act, 5 U.S.C. 553(b)(A) (rules of agency procedure do not require notice and comment). See *Aluminum Co. of America* v. *FTC*, 589 F. Supp. 169, 178 (S.D.N.Y. 1984) (holding FOIA rules are procedural rules); see also *JEM Broadcasting Co., Inc.* v. *FCC*, 22 F.3d 320, 326–28 (D.C. Cir. 1994) (rules of agency procedure are exempt from general notice and comment requirements of the APA). For the same reason, we will make this change effective October 12, 1999. See 5 U.S.C. 553(d).

List of Subjects in 47 CFR Part 0

Freedom of Information.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.442 is amended by removing ''3508(a)'' and adding

''3510(b)'' in its place in paragraphs (a) and (b), and by revising paragraph (d)(1), (d)(3), and (e) to read as follows:

§ 0.442 Disclosure to other Federal government agencies of information submitted to the Commission in confidence.

* * * * *

(d)(1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, a party who furnished records to the Commission in confidence will be notified at the time that the request for disclosure is submitted and will be afforded 10 days in which to oppose disclosure.

* * * * *

(3) A party who furnished records to the Commission in confidence under § 0.457(d) or 0.459 will not be afforded prior notice when the disclosure is made to the Comptroller General. Such a party will instead be notified of disclosure of the records to the Comptroller General either individually or by public notice.

* * * * *

(e) Except as provided in paragraph (d)(3) of this section, nothing in this section is intended to govern disclosure of information to Congress or the Comptroller General.

3. Section 0.459 is amended by adding a sentence to the end of paragraph (d)(1), by adding a sentence to the end of paragraph (g), and by adding paragraph (i) to read as follows:

§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.

* * * * *

(d)(1) * * * If a response in opposition to a confidentiality request is filed, the party requesting confidentiality may file a reply.

* * * * *

(g) * * * Materials will be accorded confidential treatment, as provided in § 0.459(g) and § 0.461, until the Commission acts on any timely applications for review of an order denying a request for confidentiality, and until a court acts on any timely motion for stay of such an order denying confidential treatment.

* * * * *

(i) Third party owners of materials submitted to the Commission by another party may participate in the proceeding resolving the confidentiality of the materials.

4. Section 0.461 is amended by revising paragraph (i) to read as follows:

§ 0.461 Requests for inspection of materials not routinely available for public inspection.

* * * * *

(i)(1) If a request for inspection of records submitted to the Commission in confidence under § 0.457(d) or § 0.459 is granted, an application for review of the action may be filed by the person who submitted the records to the Commission or by a third party owner of the records. The application for review and the envelope containing it (if any) shall be captioned ''Review of Freedom of Information Action.'' The application for review shall be filed within 10 working days after the date of the written ruling, shall be delivered or mailed to the General Counsel, and shall be served on the person who filed the request for inspection of records. The first day to be counted in computing the time period for filing the application for review is the day after the date of the written ruling. If an application for review is not filed within this period, the records will be produced for inspection. The person who filed the request for inspection of records may respond to the application for review within 10 working days after it is filed.

(2) If the request for inspection of records submitted to the Commission in confidence under § 0.457(d) or § 0.459 is partially granted and partially denied, the person who submitted the records to the Commission, a third party owner of the records and the person who filed the request for inspection of those records may file an application for review within the 10 working days after the date of the written ruling. The application for review and the envelope containing it (if any) shall be captioned ''REVIEW OF FREEDOM OF INFORMATION ACTION.'' The application for review shall be delivered or mailed to the General Counsel. If either person files an application for review, it shall be served upon the other person.

(3) If an application for review is denied, the person filing the application for review will be notified in writing and advised of their rights.

(4) If an application for review filed by the person who submitted the records to the Commission or who owns the records is denied, or if the records are made available on review which were not initially made available, the person who submitted the records to the Commission or who owns the records will be afforded 10 working days from the date of the written ruling in which to move for a judicial stay of the Commission's action. The first day to be counted in computing the time period for seeking a judicial stay is the day after the date of the written ruling. If a motion for stay is not made within this period, the record will be produced for inspection.

* * * * *

[FR Doc. 99–26520 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 98–170; FCC 99–72]

Truth-in-Billing and Billing Format

AGENCY: Federal Communications Commission.

ACTION: Final rule; establishment of effective date.

SUMMARY: This document establishes the effective and compliance dates of the Commission's rules published June 25, 1999 concerning Truth-in-Billing. The rules are intended to ensure that consumers are provided with basic information they need to make informed choices among telecommunications services and providers, to protect themselves against inaccurate and unfair billing practices, and to enhance their ability to detect cramming and slamming.

DATES: Sections 64.2000 and 64.2001 become effective November 12, 1999. However, compliance with § 64.2001(a)(2)'s requirement that carriers highlight new service providers, and § 64.2001(c), which requires that carriers identify deniable and nondeniable charges, is required by April 1, 2000.

FOR FURTHER INFORMATION CONTACT: David A. Konuch, Enforcement Division, Common Carrier Bureau (202) 418–0960.

SUPPLEMENTARY INFORMATION: On April 15, 1999, the Commission adopted an order establishing billing principles to ensure that consumers are provided with basic information they need to make informed choices among telecommunications services and providers, to protect themselves against inaccurate and unfair billing practices, and to enhance their ability to detect cramming and slamming. A summary of this order was published in the **Federal Register**. *See* 64 FR 34488, June 25, 1999. Because §§ 64.2000 and 64.2001 impose new information collection requirements, they could not become effective until approved by the Office of Management and Budget (OMB). On September 24, 1999, OMB approved the information collections contained in the rules. During this review, OMB raised concerns that certain requirements of the Order could impair the efforts of

some telecommunications carriers and providers, particularly small and medium-sized carriers, to ensure that their systems are Y2K compliant. The Commission recognized that ensuring that telecommunications-related computer systems are Y2K compliant is an important public concern. Accordingly, in light of the concerns raised by OMB, the Commission has agreed to delay, until April 1, 2000, the compliance date for rule 64.2001(a)(2)'s requirement that carriers highlight new service providers, and rule 64.2001(c), which requires that carriers identify deniable and nondeniable charges. Compliance with other principles and guidelines adopted in the Order, including rule 64.2001(a)(2)'s requirement that carriers separate charges on bills by service provider, is required November 12, 1999.

List of Subjects in 47 CFR Part 64

Communications common carriers, Consumer protection, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–26311 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 97–213; FCC 99–229]

Implementation of the Communications Assistance for Law Enforcement Act

AGENCY: Federal Communications Commission.

ACTION: Policy statement.

SUMMARY: This document examines the definition of ''telecommunications carrier'' set forth in section 102 of the Communications Assistance to Law Enforcement Act (CALEA), which determines which entities and services are subject to the assistance capability and other requirements of CALEA, and discusses how the definition applies to various types of service providers. It also provides guidance regarding the factors the Commission will consider in making determinations under section 109 of CALEA as to whether compliance with CALEA's assistance capability requirements is ''reasonably achievable'' for particular carriers, and the showings to be made by entities filing petitions under section 109.

FOR FURTHER INFORMATION CONTACT: Thomas Wasilewski, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* (Second R&O) in CC Docket No. 97–213, FCC 99–229, adopted August 26, 1999, and released August 31, 1999. The complete text of the Second R&O is available on the Commission's Internet site, at www.fcc.gov. It is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and may be purchased from the Commission's copy contractor, International Transcription Services, Inc., CY–B400, 445 12th Street S.W., Washington, DC.

Synopsis of the Report and Order

1. The Commission adopts a Second Report and Order (Second R&O) in CC Docket No. 97–213, regarding implementation of sections 102 and 109 of the Communications Assistance for Law Enforcement Act, Public Law 103–414, 108 Stat. 4279 (1994) (CALEA). Although the Notice of Proposed Rule Making (NPRM) in this proceeding (which can be found at 62 FR 63302, Nov. 11, 1997) proposed certain rules, the Second R&O does not adopt rules regarding sections 102 and 109.

2. *Section 102 Issues:* CALEA does not modify the existing surveillance laws. Instead, it requires telecommunications carriers to ensure that their facilities are capable of providing the surveillance law enforcement is authorized to conduct. The language and legislative history of CALEA provide sufficient guidance as to what the term ''telecommunications carrier'' means, such that it can be applied to particular carriers, their offerings and facilities.

3. Subsections 102(8)(A) and (B) identify what entities are subject to CALEA: essentially, common carriers offering telecommunications services for sale to the public. Section 103(a) clarifies that the assistance capability requirements apply to ''equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications. * * *'' The House Report provides further clarification in terms of the functions of covered services, stating: ''Thus, a carrier providing a customer with a service or facility that allows the customer to obtain access to a publicly switched network is responsible for complying with the capability requirements'' (H.R. Rep. No. 103–827(I), at 26 (1994).) The House Report also describes CALEA's focus in terms of law enforcement agencies' traditional surveillance requirements: ''The only entities required to comply with the [assistance capability] requirements are telecommunications common carriers, the components of the public switched network where law enforcement agencies have served most of their surveillance orders.'' (*Id.*, at 21.) Further, the legislative history contains examples of the types of service providers subject to CALEA: ''The definition of 'telecommunications carrier' includes such service providers as local exchange carriers, interexchange carriers, competitive access providers (CAPs), cellular carriers, providers of personal communications services (PCS), satellite-based service providers, cable operators, and electric and other utilities that provide telecommunications services for hire to the public, and any other wireline or wireless service for hire to the public.'' (140 Cong. Rec. H–10779 (daily ed. October 7, 1994) (statement of Rep. Hyde).)

4. The legislative history of CALEA makes clear that the requirements of CALEA do not necessarily apply to all offerings of a carrier. The House Report states: ''[C]arriers are required to comply only with respect to services or facilities that provide a customer or subscriber with the ability to originate, terminate or direct communications.'' (H.R. Rep. No. 103–827(I), at 21.) Thus, an entity is a telecommunications carrier subject to CALEA to the extent it offers, and with respect to, such services.

5. CALEA also makes clear that its requirements do not apply to certain entities and services. Subsection 102(8)(C) of the definition specifically excludes information services, and the legislative history makes clear that CALEA does not apply to private network services:

> [T]elecommunications services that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers * * * need not meet any wiretap standards. PBXs are excluded. So are automated teller machine (ATM) networks and other closed networks. Also excluded from coverage are all information services, such as Internet service providers or services such as Prodigy and America-On-Line.
>
> All of these private network systems or information services can be wiretapped pursuant to court order, and their owners must cooperate when presented with a wiretap order, but these services and systems do not have to be designed so as to comply with the capability requirements.

6. CALEA's definitions of ''telecommunications carrier'' and ''information services'' were not

modified by the 1996 Act, and the CALEA definitions therefore remain in force for purposes of CALEA. The pertinent sections of CALEA are not part of the Communications Act. Further, the 1996 Act expressly provides that it did not alter existing law by implication, and in the 1996 Act Congress did not repeal or even address the CALEA definitions. Although in virtually all cases the definitions of the two Acts will produce the same results, as a matter of law the entities and services subject to CALEA must be based on the CALEA definition, independently of their classification for the separate purposes of the Communications Act.

7. *Common Carriers and Utilities.* All entities previously classified as ''common carriers'' are considered telecommunications carriers for the purposes of CALEA, as are cable operators and electric and other utilities to the extent they offer telecommunications services for hire to the public. Such entities offer services (some subject to CALEA, some not) that use copper-wire, cable, fiber-optic, and wireless facilities to provide traditional telephone service, data service, Internet access, cable television, and other services. The Act's legislative history identifies such entities as subject to CALEA to the extent that their service offerings satisfy CALEA's description of covered services. Entities are not subject to CALEA, however, with respect to services and facilities leased for private networks, pursuant to the statute. In addition, cable television is an example of a service not covered by CALEA because it is not a ''telecommunications'' service, even if delivered via the same transmission facility as other, covered services.

8. It is unnecessary to adopt the FBI's recommendation not to use the adverb ''indiscriminately'' in clarifying the definition of telecommunications carrier. The FBI is concerned that the inclusion of this term may allow companies that hold themselves out to serve only particular groups to undermine CALEA, intentionally or inadvertently, by creating a loophole that would permit criminals to use telecommunications providers that do not indiscriminately offer their services to the public. However, the courts have long held that a common carrier is one that holds itself out to serve the public indiscriminately. This does not amount to a threshold test that a service provider is a common carrier only if it serves all who seek service. Instead, it is simply a restatement of the proposition that common carriage status involves offering one's services to the general public.

9. *Commercial Mobile Radio Services (CMRS).* CMRS providers are considered telecommunications carriers for the purposes of CALEA. This result is required by section 102(8)(B)(i) of CALEA, which states that the definition of ''telecommunications carrier'' includes ''a person or entity engaged in providing commercial mobile service (as defined in section 332(d) of [the Communications Act]).'' Section 332(d) in turn defines the term ''commercial mobile service'' as ''any mobile service * * * that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public. * * *''

10. Certain commenters claim that some entities normally classified as CMRS should not be considered subject to CALEA because they do not meet CALEA's definition of telecommunications carrier or are not technologically capable of CALEA compliance. Examples cited include providers serving niche business markets with limited interconnect capability, such as Industrial/Business Radio Services licensees offering for-profit interconnected service, local interconnected Specialized Mobile Radio (SMR) providers, and for-profit commercial interconnected 220 MHz service licensees. To the extent these services consist of interconnected service offered to the public, however, they meet the definition of CMRS set forth in section 332(d) and the entities offering them therefore must be considered telecommunications carriers subject to CALEA.

11. To the extent ''traditional'' SMR service offers interconnection, it meets the definition of CMRS and thus is subject to CALEA, but otherwise not. Similarly, push-to-talk ''dispatch'' service is subject to CALEA to the extent it is offered in conjunction with interconnected service, because in such case it is a switched service functionally equivalent to a combination of speed dialing and conference calling, but otherwise not. Thus, in any given case, the services an entity offers would determine its CALEA responsibilities.

12. The Commission recognizes that in certain cases compliance with the CALEA assistance capability requirements may be economically burdensome, or even impossible. In these cases, providers are allowed to seek extensions under section 107(c) of CALEA, or may seek relief under section 109. The Commission is also prepared to reexamine this issue once it has gained some experience in applying section 109. Exempting entire classes of CMRS services is not warranted, however, absent a more complete record on the resultant impact on operators and on CALEA objectives.

13. *Private Mobile Radio Services (PMRS).* PMRS operators are not telecommunications carriers subject to CALEA when they offer PMRS services, but the determination of whether a particular mobile service offering is private or common carrier depends on the nature of the service and to whom it is offered. Although private and common carrier services are by definition mutually exclusive, *see* 47 U.S.C. 332(d)(3), a given carrier may offer both. Where a PMRS operator uses its facilities to offer interconnected service for profit to the public, or a substantial portion of the public, that service qualifies as CMRS, and thus is subject to CALEA.

14. *Resellers.* Resellers, as telecommunications carriers under the terms of section 102, are generally subject to CALEA. However, resellers' responsibility under CALEA is limited to their own facilities, and they will therefore not be held responsible for the CALEA compliance responsibilities of the carrier whose services they are reselling with respect to the latter's underlying facilities. Further, because their offerings are limited to essentially private networks, most PBX providers and many aggregators would fall outside the scope of CALEA.

15. *Pay Telephone Providers.* Pay telephone providers are excluded from the CALEA definition of telecommunications carrier. The CALEA legislative history states that ''[t]he only entities required to comply with the functional requirements are telecommunications common carriers, the components of the public switched network where law enforcement agencies have always served most of their surveillance orders.'' (H.R. Rep. No. 103–827(I), at 21.) Moreover, pay telephone providers do not have the information and the means to effectuate lawful electronic surveillance, which is maintained by the carriers who provide switched telephone services to pay telephone providers.

16. *Information Services (IS) and Calling Features.* Where facilities are used solely to provide an information service, whether offered by an exclusively-IS provider or by a common carrier that has established a dedicated IS system apart from its telecommunications system, such facilities are not subject to CALEA. Where facilities are used to provide both telecommunications and information services, however, such joint-use facilities are subject to CALEA in order

to ensure the ability to surveil the telecommunications services. (Moreover, CALEA is technology neutral, and a carrier's choice of technology when offering common carrier services thus does not change its obligations under CALEA.) For example, digital subscriber line (DSL) services are generally offered as tariffed telecommunications services, and therefore subject to CALEA, even though the DSL offering often would be used in the provision of information services. On the other hand, where an entity uses its own wireless or satellite facilities to distribute an information service only, the mere use of transmission facilities would not make the offering subject to CALEA as a telecommunications service.

17. Calling features such as call forwarding (and the corresponding voice mail feature, call redirection), call waiting, three-way (*i.e.*, conference) calling, and speed dialing are considered to be so closely related to basic service that they are treated as adjuncts to it. *See* North American Telecommunications Ass'n, 101 FCC 2d 349 (1985), *recon. denied,* 3 FCC Rcd 4385 (1988). They are also like traditional pen registers and traps and traces in that they relate to the set-up or routing of telecommunications, rather than its content. Moreover, the legislative history of CALEA explicitly states that they are covered services. Accordingly, these specific calling features will be considered covered by CALEA, whether offered over wireline or wireless facilities.

18. *Other Issues.* It is not necessary at this time either to identify by rule additional classes of entities within CALEA's definition of telecommunications carrier, pursuant to section 102(8)(B)(ii), or to exempt in the Commission's rules any classes pursuant to section 102(8)(C)(ii). Moreover, codification in the Commission's rules of a list of examples would run the risk of being considered definitive rather than merely illustrative, and such a list is therefore not adopted.

19. *Section 109 Issues:* Section 109(b)(1) of CALEA provides that any interested person may petition the Commission for a determination regarding whether compliance with the assistance capability requirements of section 103 of CALEA is ''reasonably achievable'' with respect to any equipment, facility, or service installed or deployed after January 1, 1995. Section 109(b) provides that, in making determinations as to reasonable achievability, ''the Commission shall determine whether compliance would impose significant difficulty or expense on the carrier or on the users of the carrier's system and shall consider the following factors'':

A. The effect on public safety and national security;

B. The effect on rates for basic residential telephone service;

C. The need to protect the privacy and security of communications not authorized to be intercepted;

D. The need to achieve the capability assistance requirements of section 103 by cost-effective methods;

E. The effect on the nature and cost of the equipment, facility, or service at issue;

F. The effect on the operation of the equipment, facility, or service at issue;

G. The policy of the United States to encourage the provision of new technologies and services to the public;

H. The financial resources of the telecommunications carrier;

I. The effect on competition in the provision of telecommunications services;

J. The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995;

K. Such other factors as the Commission determines are appropriate.

20. Some commenters suggested that certain of these factors should be accorded special significance, while others suggested that additional factors should be considered. It would be premature at this point to assign special weight to any one factor generally, or to adopt additional factors. Legislative history indicates that CALEA ''seeks to balance three key policies: (1) to preserve a narrowly focused capability for law enforcement agencies to carry out properly authorized intercepts; (2) to protect privacy in the face of increasingly powerful and personally revealing technologies; and (3) to avoid impeding the development of new communications services and technologies.'' (H.R. Rep. No. 103–827(I), at 13.) In light of the overall purpose of CALEA to preserve law enforcement's ability to conduct surveillance, the Commission must in all cases consider public safety and, where applicable, national security, in its analysis of section 109 petitions. At the same time, given the importance Congress has placed on the privacy and security of communications that are not the targets of court-ordered surveillance, and the need to ensure that the development of new technologies and services is not impeded, those factors involving privacy and innovation are also likely to be important in many cases. However, the technological diversity of carrier networks, as well as other carrier characteristics, will, as a matter of course, mean that certain factors will be more important to the arguments of certain carriers than others, and that not all of the factors enumerated in section 109 may be relevant to the analysis of a given reasonable achievability petition.

21. A central concern to many commenters is the issue of how the Commission will approach the cost of CALEA compliance when evaluating section 109 petitions. As a general principle, in making judgments under section 109, the Commission will look only to the additional cost incurred in making equipment and facilities CALEA compliant. In many instances carriers will become CALEA compliant in the course of general network upgrades, and will recover any additional cost of CALEA compliance through their normal charges. (If, in particular, law enforcement and industry reach agreements regarding switch prioritization that enable the Commission to grant extensions of time under section 107(c) allowing carriers to make certain equipment CALEA compliant as part of the normal upgrade cycle, with resulting low compliance costs, the Commission would expect such compliance generally to be reasonably achievable. On the other hand, there may be cases in which law enforcement opposes any extension of time for making particular equipment CALEA compliant, resulting in substantial additional costs to a carrier. In those cases, compliance could be considered not to be reasonably achievable.) The Commission expects that CALEA solutions that would require a carrier to change vendors in order to purchase costly new switching equipment, or to replace costly existing facilities, would generally not be deemed reasonably achievable. Any petitioner who argues that it is unable to comply with CALEA for reasons of cost must present quantitative cost information that is as detailed, accurate and complete as possible, which the Commission will analyze along with any technological problems related to the nature of the equipment, facility, or service at issue. Large carriers with multiple switch types in networks that cover large or diverse areas may present data on a per-switch basis, in order to identify compliance problems specific to particular segments of the carrier's network.

22. In order to distinguish the additional costs of CALEA compliance from the costs of general network upgrades, costs will be considered related to CALEA compliance only if

carriers can show that they would not have been incurred but for the implementation of CALEA. For instance, costs incurred as an incidental consequence of CALEA compliance are not directly related to CALEA compliance and should be excluded from the carrier's showing. Finally, general overhead costs cannot be allocated to CALEA compliance, only additional overheads incremental to and resulting from CALEA compliance.

23. Carrier size and geographic location may be significant considerations under section 109. However, if law enforcement and the telecommunications industry agree on a flexible CALEA deployment schedule that results in an extension of the current compliance deadline for equipment and facilities in areas that are not high priorities for law enforcement, it is not likely that many small rural carriers will need relief under section 109.

24. Implementation of section 109 should seek to minimize any adverse effects of CALEA compliance on quality of service and subscriber rates. This approach is consistent with the mandate to the Commission in section 109(b)(1) to determine ''whether compliance would impose significant difficulty or expense on the carrier or the users of the carrier's systems . . . .'' Moreover, the same section directs the Commission to consider the effect of compliance on rates for ''basic residential telephone service,'' reflecting a special Congressional concern about rate impacts for that service. (In addition, under section 107(b), one of the factors that the Commission is to consider in establishing technical requirements or standards is minimizing the cost of compliance on residential ratepayers.) However, the arguments in this record that CALEA compliance will increase rates, affect quality of service, make particular technologies and services unprofitable, prevent the introduction of services to the market, or price services out of the reach of certain groups of customers, are at this point inherently speculative. Any such arguments made in individual petitions under section 109 will be given substantial weight only to the extent they are made with particularity and are grounded on specific quantitative data.

25. The Commission may consider the financial resources of individual telecommunications carriers under section 109(b)(1)(H), and industrywide competitive pressures under section 109(b)(1)(I), in evaluating section 109 petitions. Requests for relief based on such factors must be supported by carrier- or industry-specific facts, including quantitative data. Special consideration for a new market entrant would not necessarily be tantamount to an unfair subsidy.

26. Any petitioner who seeks relief under section 109 on the basis of the delay in the adoption of assistance capability standards must present carrier- or equipment-specific facts demonstrating that such delay actually has made CALEA compliance infeasible. Claims alleging a lack of CALEA-compliant software and hardware on the market will be taken into consideration in the evaluation of section 109 petitions, but only if raised with sufficient specificity and supported with a particularized showing. Law enforcement need not demonstrate that equipment or facilities have been used for criminal activity in cases where reasonable achievability petitions are filed before CALEA-compliant hardware or software is available. With respect to the FBI's delay in issuing capacity requirements, there has now been ample time for industry to evaluate these requirements, and the Commission does not expect to grant section 109 petitions on the basis of the timing of the issuance of the requirements.

27. Pursuant to section 109(b)(1)(J), the extent to which the design and development of equipment was initiated before January 1, 1995, will be considered to the extent appropriate in the Commission's examination of section 109 petitions. In commenting on section 109(b)(1)(J), certain parties argue as well that the definition of ''installed or deployed'' adopted by the FBI as part of its cost recovery rules is excessively narrow in restricting its application to equipment, facilities, and services ''operable and available for use'' by a carrier's customers by January 1, 1995. (The FBI's final cost recovery rules are set forth at 28 CFR 100.9–100.21. The FBI's definition in its rules of ''installed or deployed'' is found at 28 CFR 100.10.) Under section 109(e) of CALEA, the Attorney General is vested with the responsibility for establishing cost control regulations governing the Federal Government's payment of costs associated with bringing equipment installed or deployed on or before January 1, 1995, into compliance with CALEA. The Commission is assigned only a consultatory role with respect to such cost control regulations. 47 U.S.C. 1008(e)(2).

Thus, it is not within the Commission's authority to adopt rules defining ''installed or deployed.''

28. Equipment manufacturers and their associations are interested parties to this proceeding, and therefore will be allowed to file section 109 petitions. The filing of a section 109 petition will not automatically toll the CALEA compliance deadline; such tolling would be tantamount to an automatic extension of the deadline, which may not be appropriate in all cases.

29. In light of industry's significant role in developing the assistance capability standards of CALEA, section 109 is to be reserved for the examination of specific carrier compliance problems, and is not to be used as a vehicle for rearguing the standards that have been established for compliance with section 103.

30. Some carriers may file petitions under section 107(c) for extensions of time to comply with CALEA, which the Commission may grant if it ''determines that compliance with the assistance capability requirements under section 103 is not reasonably achievable through application of technology available within the compliance period.'' To the extent the Commission finds it appropriate to grant extensions of time under section 107(c), it may be necessary to provide relief under section 109 only in unusual cases.

31. *Procedural matters.* This action is taken pursuant to sections 1, 2, 4(i), 201(a), 229, 301, 303 and 332(c) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 201(a), 229, 301, 303, 332(c)(1)(B).

32. *Ordering clauses.* Accordingly, IT IS ORDERED that the Regulatory Flexibility Analysis, as required by Section 604 of the Regulatory Flexibility Act and as set forth below, is adopted.

33. *It is Further Ordered* that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this SECOND REPORT AND ORDER, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Final Regulatory Flexibility Analysis

34. As required by the Regulatory Flexibility Act (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking in this proceeding.[2] The Commission sought written public comment on the proposals in the NPRM, including the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[3]

[1] *See* 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 62 FR 63302, Nov. 11, 1997, 13 FCC Rcd 3149, 3184–94 (1997) (NPRM).

[3] *See* 5 U.S.C. 604.

35. *Need for and Purpose of this Action.* In the Second R&O, the Commission, in compliance with 47 U.S.C. 229, promulgates policies implementing the Communications Assistance for Law Enforcement Act.[4] In enacting CALEA, Congress sought to ''make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes * * *'' [5] The Second R&O addresses in particular certain issues relevant to sections 102 and 109 of CALEA: (1) the definition of ''telecommunications carrier'' set forth in section 102, which determines which entities and services are subject to the assistance capability and other requirements of CALEA; and (2) the factors the Commission will consider in making determinations under section 109 of the Act as to whether compliance with CALEA is reasonably achievable for particular carriers.

36. The policies adopted in the Second R&O implement Congress's goal of ensuring that telecommunications carriers support the lawful electronic surveillance needs of law enforcement agencies as telecommunications technologies evolve. These policies promote the three key policies Congress sought to balance in enacting CALEA: ''(1) to preserve a narrowly focused capability for law enforcement agencies to carry out properly authorized intercepts; (2) to protect privacy in the face of increasingly powerful and personally revealing technologies; and (3) to avoid impeding the development of new communications services and technologies.'' [6]

37. *Summary of the Issues Raised by Public Comments Made in Response to the IRFA.* In the NPRM, the Commission asked for comments that specifically addressed issues raised in the IRFA.[7] The IRFA focused on proposed reporting, recordkeeping and other compliance requirements relating primarily to sections 105 and 107 of CALEA. These matters lie outside the immediate scope of the Second R&O, which is limited to clarifying what entities, services, and facilities are subject to CALEA (pursuant to section 102) and examining the factors the Commission will consider when determining if compliance with CALEA's assistance capability requirements is reasonably achievable (pursuant to section 109). No party filed comments directly responding to the IRFA that addressed issues dealt with in the Second R&O. Many parties, however, submitted comments on the Commission's proposals affecting small businesses set forth in the NPRM. These included requests that we exempt certain categories of telecommunications carriers from the assistance capability requirements, based on their limited operations or the burden of implementing the facility changes necessary to meet the requirements, and that in considering whether compliance is reasonably achievable, we attach special significance to the economic impact on ''smaller carrier[s].'' We summarize our action on these comments below.

38. Description and Estimate of the Number of Small Entities to Which the Actions Taken May Apply. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the action taken.[8] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [9] In addition, the term ''small business'' has the same meaning as the term ''mall business concern'' under the Small Business Act.[10] A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[11] A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [12] Nationwide, as of 1992, there were approximately 275,801 small organizations.[13] And finally, ''small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' [14] As of 1992, there were approximately 85,006 such jurisdictions in the United States.[15] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.[16] The United States Bureau of the Census (Census Bureau) estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small business concerns that may be affected by the actions taken in this Second Report and Order.

39. As noted, under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA.[17] The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.[18] We first discuss the number of small telecommunications entities falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

40. *Total Number of Telecommunications Entities Affected.* The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[19] This number contains a variety of different categories of entities, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and

[4] Public Law 103–414, 108 Stat. 4279 (1994) (codified as amended in sections of 18 U.S.C. and 47 U.S.C.).

[5] CALEA, *supra*, at preamble.

[6] H.R. Rep. 103–827(I), at 16 (1994).

[7] NPRM at pars. 54–76.

[8] 5 U.S.C. 603(b)(3).

[9] 5 U.S.C. 601(6).

[10] 10 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.'' 5 U.S.C. 601(3).

[11] Small Business Act, 15 U.S.C. 632.

[12] 5 U.S.C. 601(4).

[13] 1992 Economic Census, Bureau of the Census, U.S. Dept. of Commerce, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Administration).

[14] 5 U.S.C. 601(5).

[15] 1992 Census of Governments, Bureau of the Census, U.S. Dept. of Commerce.

[16] *Id.*

[17] 15 U.S.C. 632. *See, e.g., Brown Transport Truckload, Inc.* v. *Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

[18] 13 CFR 121.201.

[19] 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, Bureau of the Census, U.S. Dept. of Commerce, at Firm Size 1–123 (1995) (1992 Census).

operated.'' [20] For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the actions taken in the Second R&O.

41. The most reliable source of current information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its ''Carrier Locator'' report, derived from filings made in connection with the Telecommunications Relay Service (TRS).[21] According to data in the most recent report, there are 3,604 interstate carriers.[22] These include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

42. We have included small incumbent local exchange carriers (LECs) in this RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' [23] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope.[24] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

43. *Wireline Carriers and Service Providers (SIC 4813).* The Census Bureau reports that there were 2,321 telephone communications companies other than radiotelephone companies in operation for at least one year at the end of 1992.[25] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the actions taken in the Second R&O.

44. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, and Resellers.* Neither the Commission nor SBA has developed a definition of small LECs, interexchange carriers (IXCs), competitive access providers (CAPs), or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[26] The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS.[27] According to our most recent data, there are 1,410 LECs, 151 IXCs, 129 CAPs, and 351 resellers.[28] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,410 small entity LECs or small incumbent LECs, 151 IXCs, 129 CAPs, and 351 resellers that may be affected by the actions taken in the Second R&O.

45. *Wireless Carriers (SIC 4812).* The Census Bureau reports that there were 1,176 radiotelephone (wireless) companies in operation for at least one year at the end of 1992, of which 1,164 had fewer than 1,000 employees.[29] Even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned are operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the actions taken in the Second R&O.

46. *Cellular, PCS, SMR and Other Mobile Service Providers.* In an effort to further refine our calculation of the number of radiotelephone companies that may be affected by the actions taken in the Second R&O, we consider the data that we collect annually in connection with the TRS for the subcategories Wireless Telephony (which includes PCS, Cellular, and SMR) and Other Mobile Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to these broad subcategories, so we will utilize the closest applicable definition under SBA rules, which is for radiotelephone communications companies.[30] According to our most recent TRS data, 732 companies reported that they are engaged in the provision of Wireless Telephony services and 23 companies reported that they are engaged in the provision of Other Mobile Services.[31] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Wireless Telephony Providers and Other Mobile Service Providers, except as described below, that would qualify as small business

[20] 15 U.S.C. 632(a)(1).

[21] Carrier Locator: Interstate Service Providers, Fig. 1 (Jan. 1999) (Carrier Locator). *See also* 47 CFR 64.601–608.

[22] Carrier Locator at Fig. 1.

[23] 5 U.S.C. 601 (3).

[24] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of ''small business concern,'' which the RFA incorporates into its own definition of ''small business.'' *See* 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret ''small business concern'' to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket, 96–98, *First Report and Order*, 61 FR 45475, Aug. 29, 1996, 11 FCC Rcd 15499, 16144–45 (1996).

[25] 1992 Census, *supra,* at Firm Size 1–123.

[26] 13 CFR 121.210, SIC Code 4813.

[27] *See* 47 CFR 64.601 *et seq.;* Carrier Locator at Fig. 1.

[28] Carrier Locator at Fig. 1. The total for resellers includes both toll resellers and local resellers. The TRS category for CAPs also includes competitive local exchange carriers (CLECs) (total of 129 for both).

[29] 1992 Census, *supra,* at Firm Size 1–123.

[30] *Id.* To the extent that the Commission has adopted definitions for small entities in connection with the auction of particular wireless licenses, we discuss those definitions below.

[31] Carrier Locator at Fig. 1.

concerns under SBA's definition. Consequently, we estimate that there are fewer than 732 small entity Wireless Telephony Providers and fewer than 23 small entity Other Mobile Service Providers that might be affected by the actions taken in the Second R&O.

47. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small business'' for Blocks C and F as an entity that has average gross revenues of not more than $40 million in the three previous calendar years.[32] These regulations defining ''small business'' in the context of broadband PCS auctions have been approved by SBA.[33] No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There have been 237 winning bidders that qualified as small entities in the four auctions that have been held for licenses in Blocks C, D, E and F, all of which may be affected by the actions taken in the Second R&O.

48. *SMR Licensees.* The Commission has defined ''small business'' in auctions for geographic area SMR licenses as a firm that had average annual gross revenues of not more than $15 million in the three previous calendar years, and the SBA has approved this definition.[34] The actions taken in the Second R&O may apply to SMR providers that either acquired geographic area licenses through auction or held licenses before the auctions. We do not have data reflecting the total number of firms holding pre-auction licenses, nor how many of these providers have annual revenues of less than $15 million. Consequently, for purposes of this FRFA, we estimate that all of the pre-auction SMR authorizations may be held by small entities, some of which may be affected by the actions taken in the Second R&O.

49. The Commission has held two auctions for geographic area SMR licenses. Sixty winning bidders in the 900 MHz auction qualified as small entities, and 38 in the 800 MHz auction. Based on this information, we estimate that the number of geographic area SMR licensees that may be affected by the actions taken in the Second R&O includes these 98 small entities. An additional 230 channels in the lower portion of the 800 MHz SMR band will be made available in a future auction. However, the Commission has not yet determined how many licenses will be offered, and thus at this time there is no basis on which to estimate how many small entities may win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we estimate, for purposes of this FRFA, that all of the licenses may be awarded to small entities, some of which may be affected by the actions taken in the Second R&O.

50. *220 MHz Radio Service.* The 220 MHz service has both Phase I and Phase II licenses. There are approximately 1,515 Phase I non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to radiotelephone communications companies.[35] According to the Census Bureau, only 12 radiotelephone firms out of a total of 1,176 such firms which operated during 1992 had 1,000 or more employees.[36] Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

51. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz Third Report and Order we adopted criteria for defining small businesses for purposes of determining their eligibility for special provisions such as bidding credits.[37] We have defined a small business as an entity that has average gross revenues not exceeding $15 million for the preceding three years.[38] The Commission has held two auctions for Phase II 220 MHz licenses, and in them 53 entities that qualified as small or very small entities were winning bidders.

52. *Paging.* The Wireless Telecommunications Bureau has announced a series of auctions of paging licenses, offering a total of 16,630 non-nationwide geographic area licenses.[39] The first auction will commence on February 24, 2000, and will consist of 2,499 licenses.[40] For purposes of these auctions, a small business is defined as an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. The SBA has approved this definition.[41] Given the fact that nearly all radiotelephone companies had fewer than 1,000 employees, and that no reasonable estimate of the number of prospective paging licensees could be made, the Commission has assumed, for purposes of the evaluations and conclusions in the FRFA, that all the auctioned 16,630 geographic area licenses would be awarded to small entities.[42]

53. In addition, our Third CMRS Competition Report estimated that as of January 1998, there were more than 600 paging companies in the United States.[43] The Third CMRS Competition Report also indicated that at least ten of the top twelve publicly held paging companies had average gross revenues in excess of $15 million for the three

[32] 47 CFR 24.720(b)(1).

[33] Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Fifth Report and Order,* 59 FR 37566, July 22, 1994, 9 FCC Rcd 5532, 5581–84 (1994).

[34] 47 CFR 90.1814(b)(1) and 90.912(b)(1). *See* Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89–583, *Second Order on Reconsideration and Seventh Report and Order,* 60 FR 48913,, Sept. 21, 1995, 11 FCC Rcd 2639, 2693–702 (1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93–144, *First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking,* 61 FR 6212, Feb. 16, 1996, 11 FCC Rcd 1463 (1995).

[35] *See supra* par. 40.

[36] 1992 Census, *supra,* UC92–S–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

[37] *220 MHz Third Report and Order,* PR Docket No. 89–552, 62 FR 16004, Apr. 3, 1997, 12 FCC Rcd 10943, 11068–70, pars. 291–295 (1997). The SBA has approved these definitions. *See* Letter from A. Alvarez, Administrator, SBA, to D. Phythyon, Chief, Wireless Telecommunications Bureau, FCC (Jan. 6, 1988).

[38] 47 CFR 90.1021(b) *See also 220 MHz Third Report and Order, supra,* 12 FCC Rcd at 11068–69, par. 291.

[39] *See* Future Development of Paging Systems, *Second Report and Order and Further Notice of Proposed Rulemaking,* WT Docket 96–18, 62 FR 11616, Mar. 12 1997, 12 FCC Rcd 2732, 2863 (1997).

[40] Public Notice, ''Auction of 929 and 91 MHz Paging Service Spectrum,'' Report No. AUC–99–26–B, DA No. 99–1591, 64 FR 48623, September 7, 1999 (Wireless Telecom. Bur. Aug. 12 1999).

[41] *See* Letter from A. Alvarez, Administrator, SBA, to A.J. Zoslov, Chief, Auctions Division, Wireless Telecommunications Bureau, FCC (Dec. 2, 1998).

[42] *See* Future Development of Paging Systems, *Second Report and Order and Further Notice of Proposed Rulemaking,* WT Docket 96–18, 62 FR 11615, March 12, 1997, 12 FCC Rcd 2732, 2863–64 (1997).

[43] Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, *Third Report,* FCC 98–9, 63 FR 11612, March 10, 1998, at 40 (June 11, 1998) (Third CMRS Competition Report).

years preceding 1998.[44] Data obtained from publicly available company documents and SEC filings indicate that this is also true for the three years preceding 1999.

54. *Narrowband PCS.* The Commission has auctioned 11 nationwide and 30 regional licenses for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

55. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[45] A significant subset of the Rural Radiotelephone Service consists of Basic Exchange Telephone Radio Systems (BETRS).[46] We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[47] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

56. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[48] Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[49] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

57. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.[50] At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

58. *Wireless Communications Services (WCS).* This service can be used for fixed, mobile, radio location and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the WCS auction as an entity with average gross revenues that are not more than $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues that are not more than $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the actions taken in the Second R&O includes these eight entities.

59. *Cable Services or Systems.* The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in revenue annually.[51] This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $11 million in revenue.[52]

60. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide.[53] Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.[54] Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

61. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.[55] The Commission has determined that there are 66,000,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 660,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate.[56] Based on available data, we find that the number of cable operators serving 660,000 subscribers or less totals 1,450.[57] We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000,[58] and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total of 66,000,000 subscribers.

62. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. In the

[44] *See* Third CMRS Competition Report, App. C at 5.

[45] The service is defined in 47 CFR 22.99.

[46] BETRS are defined in 47 CFR 22.757, 22.759.

[47] *See supra* par. 40.

[48] The service is defined in 47 CFR 22.99.

[49] 13 CFR 121.201, SIC Code 4812.

[50] This service is governed by Subpart I or Part 22 of the Commission's Ruled. *See* 47 CFR 22.1001–.1037.

[51] 13 CFR 121.201, SIC 4841.

[52] 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, SIC code 4841 (U.S. Bureau of Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

[53] 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable operator is one with annual revenues of $100 million or less. Implementation of Sections of the 1992 Cable Act: Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration*, 60 FR 10534, February 27, 1995, 10 FCC Rcd 7393 (1995).

[54] Paul Kagan Associates, Inc., ''Cable TV Investor,'' Feb. 29, 1996 (based on figures for December 30, 1995).

[55] 47 U.S.C. 543 (m)(2).

[56] 47 U.S.C. 76.1403(b).

[57] Paul Kagan Associates, Inc., ''Feb. 29, 1996 (based on figures for Dec. 30, 1995).

[58] We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.1403(b) of the Commission's rules. *See* 47 CFR 76.1403(d).

Second R&O we affirm our proposals in the NPRM to clarify what entities, services, and facilities are subject to CALEA.[59] In addition, we provide guidance regarding the factors the Commission will consider when determining under section 109 of CALEA if compliance with the assistance capability requirements of the Act is reasonably achievable, as well as the showings that entities filing petitions under section 109 will be expected to make.[60] These actions impose no reporting, recordkeeping or other compliance requirements beyond those imposed by CALEA itself.

63. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. We have largely adopted the tentative conclusions of the NPRM as to what entities are and are not subject to the assistance capability requirements. Although section 102(8)(B)(ii) of CALEA gives us the discretion, we have decided not to exempt any categories in our rules. We have resolved the concern mentioned most frequently in the comments' regarding the dispatch service of ''traditional'' SMR operators—by finding such operations to be outside CALEA's definition of ''telecommunications carrier'' insofar as the service is not interconnected with the public switched network. We have considered AMTA's argument that CMRS providers serving niche business markets with limited interconnect capability are not technologically capable of CALEA compliance, but we have found that to the extent their services meet the definition of CMRS set forth in section 332(d) of the Communications Act, such entities must be considered subject to CALEA. In response to those commenters who argue that a private mobile radio service (PMRS) operator cannot be subject to CALEA for any reason, we have found that where a PMRS operator uses its facilities to offer a service that qualifies as CMRS, that service is subject to CALEA.

64. We recognize that compliance with the assistance capability requirements may be economically burdensome for some entities. CALEA provides two mechanisms through which carriers may seek relief: they may petition the Commission for an extension of the compliance date under section 107(c), and they may petition the Commission for a determination that compliance is not reasonably achievable under section 109(b). We believe these mechanisms provide the best approach to avoiding undue burdens on small entities, without undercutting the objectives of CALEA.[61] We are also prepared to reexamine whether any categories of service providers should be exempted, once we have gained some experience in applying section 109.

65. We have decided that in determining whether compliance with the assistance capability requirements is reasonably achievable, we will not at this time accord special significance to any particular factor enumerated in section 109 and we will not adopt any additional factors. As we note in the Second R&O, ''the technological diversity of carrier networks, as well as other carrier characteristics, will, as a matter of course, mean that certain factors will be more important to the arguments of certain carriers than others, and not all of the factors enumerated in section 109 may be relevant to the analysis of a given reasonable achievability petition.'' [62] We recognize, however, that carrier size may be a significant consideration in particular cases, and we reject AT&T's assertion that special consideration for a new market entrant could be tantamount to an unfair subsidy.

66. Report to Congress. The Commission shall send a copy of the Second R&O, including this FRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.[63] In addition, the Commission shall send a copy of the Second R&O, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Second R&O and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–26594 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

[59] Second Report and Order, pars. 6–28.

[60] *Id.* pars. 29–45.

[61] *See id.,* pars. 36–45.

[62] *Id.,* par. 37.

[63] *See* 5 U.S.D. 801 (a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2035; MM Docket No. 99–167; RM–9391]

Radio Broadcasting Services; Mount Olive and Staunton, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Talley Broadcasting Corporation, reallots Channel 287A from Mount Olive to Staunton, Illinois as its first local aural transmission service, and modifies Station WAOX(FM)'s construction permit accordingly. *See* 64 FR 28133, May 25, 1999. Channel 287A can be reallotted to Staunton in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's authorized construction permit site. The coordinates for Channel 287A at Staunton are 39–02–37 North Latitude and 89–44–56 West Longitude. With this action, this proceeding is terminated.

DATES: Effective November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–167, adopted September 22, 1999, and released October 1, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Mount Olive, Channel 287A, and adding Staunton, Channel 287A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26418 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1879; MM Docket No. 99–119; RM–9550]

Radio Broadcasting Services; Shiprock, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 265C1 to Shiprock, NM, as the community's first local aural service. *See* 64 FR 18873, April 16, 1999. Channel 265C1 can be allotted to Shiprock with a site restriction of 2.9 kilometers (1.8 miles) southwest, at coordinates 36–46–12 NL; 108–42–49 WL, to avoid a short-spacing to Station KIQX, Channel 267C, and Station KRSJ, Channel 263C, Durango, CO. With this action, this proceeding is terminated.

DATES: Effective November 1, 1999. A filing window for Channel 265C1 at Shiprock will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–119, adopted September 8, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Shiprock, Channel 265C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26514 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1879; MM Docket No. 99–120; RM–9551]

Radio Broadcasting Services; Magdalena, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 240C2 to Magdalena, NM, as the community's first local aural service. *See* 64 FR 18872, April 16, 1999. Channel 240C2 can be allotted to Magdalena in compliance with the Commission's mileage separation requirements without the imposition of a site restriction, at coordinates 34–07–00 NL; 107–14–36 WL. Mexican concurrence in the allotment has been received since Magdalena is located within 320 kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

DATES: Effective November 1, 1999. A filing window for Channel 240C2 at Magdalena will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–120, adopted September 8, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PartT 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Magdalena, Channel 240C2.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26515 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1879; MM Docket No. 99–122; RM–9553]

Radio Broadcasting Services; Minatare, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 295A to Minatare, NE, as the community's first local aural service. *See* 64 FR 18871, April 16, 1999. Channel 295A can be allotted to Minatare without the imposition of a site restriction, at coordinates 41–48–34 NL; 103–30–12 WL. With this action, this proceeding is terminated.

DATES: Effective November 1, 1999. A filing window for Channel 295A at Minatare, NE, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–122, adopted September 8 , 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the

FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Minatare, Channel 295A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26516 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1879; MM Docket No. 99–158; RM–9615]

Radio Broadcasting Services; Dexter, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 241C3 to Dexter, NM, as the community's first local aural service. *See* 64 FR 28132, May 25, 1999. Channel 241C3 can be allotted to Dexter without the imposition of a site restriction, at coordinates 33–11–42 NL; 104–22–18 WL. Mexican concurrence in the allotment has been obtained since Dexter is located within 320 kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

DATES: Effective November 1, 1999. A filing window for Channel 241C3 at Dexter, NM, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–158, adopted September 8, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Dexter, Channel 241C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26517 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1879; MM Docket No. 99–191; RM–9632]

Radio Broadcasting Services; Tularosa, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 274C3 to Tularosa, NM, as the community's first local aural service. *See* 64 FR 29977, June 4, 1999. Channel 274C3 can be allotted to Tularosa without the imposition of a site restriction, at coordinates 33–04–30 NL; 106–01–06 WL. Mexican concurrence in the allotment has been obtained since Tularosa is located within 320 kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

DATES: Effective November 1, 1999. A filing window for Channel 274C3 at Tularosa will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–191, adopted September 8, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Tularosa, Channel 274C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26518 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1879; MM Docket No. 99–90; RM–9528]

Radio Broadcasting Services; Socorro, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, we are allotting Channel 271C2 to Socorro, NM, as the community's second local commercial FM service. *See* 64 FR 15713, April 1, 1999. Channel 271C2 can be allotted to Socorro without the imposition of a site restriction, at coordinates 34–03–42 NL; 106–53–48 WL. Mexican concurrence in the allotment has been obtained since Socorro is located within 320 kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

DATES: Effective November 1, 1999. A filing window for Channel 271C2 at Socorro, NM, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–90, adopted September 8, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Channel 271C2 at Socorro.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–26513 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–D

Proposed Rules

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders; Public Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meeting on potential changes to NRC hearing process.

SUMMARY: The Nuclear Regulatory Commission has recently initiated a re-examination of the processes and procedures for making the various kinds of decisions that require a ''hearing''. This re-examination will eventually result in a proposed rule noticed in the **Federal Register** for public comment. However, in order to have the benefit of early and interactive comment on the rulemaking issues before the NRC staff drafts the proposed rule for Commission consideration, the NRC is convening a public workshop to solicit the views of persons representing the interests that may be affected by the rulemaking. The public workshop will be held at the Commission's headquarters in Rockville, Maryland, on October 26 and 27 (½ day), 1999. Francis X. Cameron, Special Counsel for Public Liaison, in the Commission's Office of the General Counsel, will be the convenor and facilitator for the workshop.

DATES: The public workshop will be in Rockville, Maryland on October 26, 1999 from 8:30 a.m. to 5:15 p.m. and on October 27, 1999 from 8:30 a.m. to 12:15 p.m.

ADDRESSES: The public workshop will be held in the Commission's hearing room at NRC Headquarters at 11555 Rockville Pike, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Special Counsel for Public Liaison, Office of the General Counsel, Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–1642.

SUPPLEMENTARY INFORMATION: The legal foundation for the NRC regulatory process is the Atomic Energy Act of 1954. The Act provides that a ''hearing'' (or in some cases, the opportunity for a hearing) is required for certain agency actions, but does not specify what kind of a hearing should be held. The Atomic Energy Commission (AEC), predecessor to the NRC, took the position that by a ''hearing,'' the Atomic Energy Act meant a formal hearing, resembling a courtroom trial, with testimony given under oath and an opportunity for the parties to cross-examine the other side's witnesses. At the time, Congress and the AEC were focusing on the procedures for licensing the construction of nuclear power plants. Over time, however, it became apparent that the same format may not be ideal for all types of Commission proceedings and that the Atomic Energy Act generally does not require a formal, courtroom trial-type hearing. Consequently, the NRC developed new, less formal procedures for some types of proceedings.

In early 1999, the NRC's General Counsel sent a detailed memorandum to the Commissioners (SECY–99–006, ''Re-Examination of the NRC Hearing Process'') discussing legal requirements for NRC hearings and policy considerations to be taken into account in any revision of the NRC hearing process (the document is available to the public at the NRC's Website, www.nrc.gov, and is also available from the agency contact identified at the beginning of this Notice). The General Counsel's memorandum made no recommendation for revision of the hearing process, instead laying out the pros and cons of different approaches. In response to this memorandum, the Commission has directed the NRC legal staff to initiate a rulemaking to evaluate what changes should be made to the NRC hearing process. One of the primary issues for evaluation is the Commission's desire generally to move toward less formal proceedings. In initiating the rulemaking, the Commission recognized that it would be important to have the benefit of the expertise and concerns of those who may be affected by this action early in the rulemaking process. The public workshop is designed to solicit those views to assist in the formulation of the proposed rulemaking.

The objective of the public workshop is to bring together representatives of the interests affected by the rulemaking to discuss their views on the rulemaking issues in a ''roundtable'' format. In order to have a manageable discussion, the number of participants around the table will, of necessity, be limited. The Commission, through the facilitator for the meeting, will attempt to ensure broad participation by the broad spectrum of interests affected by the rulemaking, including citizen and environmental groups, nuclear industry interests, state, tribal, and local governments, and experts from academia and other agencies. Other members of the public are welcome to attend, and the public will have the opportunity to comment on each of the agenda items slated for discussion by the roundtable participants. Questions about participation may be directed to the facilitator, Francis X. Cameron.

The workshop will have a pre-defined scope and agenda (set forth below) focused on the major policy issues in regard to potential revisions to the NRC hearing process. However, the meeting format will be sufficiently flexible to allow for the introduction of additional related issues that the participants may wish to raise. Although there are important legal issues on the scope of the Commission's authority to revise its hearing process in particular ways (discussed in SECY–99–006), the purpose of the workshop is to hear the views of the participants on the policy issues surrounding the value of implementing various types of revisions, assuming for purposes of discussion that the Commission has the legal authority to revise its processes. The agenda for the workshop is set forth below.

Agenda

Tuesday, October 26, 1999

8:30 a.m.—Welcome, Groundrules, Agenda Overview, Introduction of Participants
F.X. Cameron, Facilitator

9:00 a.m.—Overview of NRC Hearing Process
Lawrence Chandler, Associate General Counsel for Hearings, Enforcement and Administration, NRC

9:30 a.m.—Emerging issues in addressing the degree of formality in agency adjudications

Professor Jeffrey Lubbers, Washington School of Law, American University. See Attachment 2, SECY–99–006

10:15 a.m.—Break

10:40 a.m.—What are the desired objectives or ''performance goals'' of the NRC hearing process? For example, SECY–99–006 suggests five performance goals (fairness, substantive soundness, inclusiveness, efficiency, and transparency). Are there other goals or objectives? Are any of these objectives more important than others?

Participant discussion

12:00 Noon—Lunch

1:15 p.m.—What are the attributes of a formal versus an informal hearing process? What are the defining characteristics of formal processes? Informal processes? For example, are discovery and sworn direct and cross-examination of witnesses solely attributes of formal processes or can they also fit into the spectrum of informal hearing processes?

Participant discussion

2:15 p.m.—What are the different ''models'' or variations of an informal hearing process? What are the advantages and disadvantages of each of these models? See Attachment 4, SECY–99–006.

Participant discussion

3:00 p.m.—Break

3:30 p.m.—How do formal and informal processes compare in achieving the desired objectives of the NRC hearing process? How much do opportunities for cross-examination and discovery contribute to the hearing process? What factors, for example, complexity and difficulty of the case, experience of litigants, might influence how effectively the goals or objectives are achieved? How much is the cost to participants of different kinds of hearings a consideration?

Participant discussion

5:00 p.m.—Preview of next day's discussion

5:15 p.m.—Adjourn

Wednesday, October 27, 1999

8:30 a.m.—Comparison of formal and informal processes: Summary discussion by participants

9:30 a.m.—Is the informal or formal process more appropriate for one type of NRC licensing action than another? For example, what process is more appropriate for enforcement proceedings? The high-level waste repository proceeding? Initial licensing of power reactors and fuel cycle facilities? License amendments? What criteria should guide this decision? Can the selection of process be done on a case-by-case basis? By whom? At what stage of the proceeding?

Participant Discussion

10:15 a.m.—Break

10:30 a.m.—Are there improvements that can be made to the Commission's formal hearing process? Are there improvements that can be made to the Commission's informal hearing process? Are there issues that the NRC should address regardless of whether an informal or a formal hearing process is used, e.g., who presides? exercise of greater control by the ''presiding officer''? role of limited appearances? standing? Discovery, cross-examination? Electronic filing? What about appeals? Is an appeal ''of right''? To the Commission? Discretionary review?

Participant Discussion

Noon—Wrap up: Final comments, next steps

12:15 p.m.—Adjourn

Dated at Rockville, Maryland this 4th day of October, 1999.

For the Nuclear Regulatory Commission,

Karen D. Cyr,

General Counsel.

[FR Doc. 99–26487 Filed 10–8–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–52–AD]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft Corporation SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Fairchild Aircraft Corporation (Fairchild) SA226 and SA227 series airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–52–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 99–CE–52–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–52–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

On October 1, 1998, the FAA sent letters to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). The letters requested certain icing system design information and operational procedures applicable to their airplanes concerning flight during icing conditions. The letters also requested that manufacturers provide data showing that the aircraft has safe operating characteristics with ice accreted on the protected surfaces (boots). The manufacturers were asked to provide data using the following assumptions: The most adverse ice accumulation possible during operation in the icing envelope specified in part 25, Appendix C of the Federal Aviation Regulations (14 CFR part 25), and that recommended procedures for deicing boot operation were used. Additionally, the manufacturers were asked to provide information related to operation of the autopilot during icing conditions, and for information related to appropriate operating speeds for icing operations.

No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

Subsequent to the collection of those design and operational data, the FAA held an international conference on ''Inflight Operations in Icing Conditions'', in Washington, DC, on February 2–4, 1999. The purpose of the conference was to discuss the status of the FAA Icing Plan and other related efforts. Additionally, the conference provided a forum for representatives of industry to express their viewpoints on current information related to activation of deicing boots, minimum airspeeds, autopilot operation in icing conditions, flightcrew information needs, and flightcrew training. Certain information presented at that meeting is discussed in this proposed rule in the following section.

Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1 ½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

Ice Bridging

In the past, concern about ''ice bridging'' on early pneumatic deicing boot designs resulted in the common practice of delaying activation of ice protection. Ice bridging of pneumatic deicing boots occurred when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot tube without being fractured and shed during the ensuing tube deflation. As the deformed ice hardens and accretes additional ice, the deicing boot becomes ineffective in shedding the ''sheath'' of ice. However, ice accumulation resulting from delayed activation may pose an unsafe condition due to the resultant adverse aerodynamic effects on the airplane's performance or handling qualities.

In November 1997, the FAA and the National Aeronautics and Space Administration (NASA) co-sponsored an international workshop on aircraft deicing boot ice bridging. The objective of the workshop was to provide an open forum for investigating the existence of deicing boot bridging and other concerns related to activating ice protection systems at the initial detection of inflight icing. Sixty-seven representatives from airframe and deicing boot manufacturers, various airlines, the pilot community, NASA, the National Transportation Safety Board, non-US civil aviation authorities, and the FAA participated. At the workshop no evidence was presented to substantiate that aircraft with modern deicing boot designs experience ice bridging. The general consensus of the workshop participants was that ice bridging is not a problem for modern pneumatic deicing boot designs due to the use of higher air supply pressures, faster boot inflation and deflation cycles, and smaller boot chambers. Icing wind tunnel and flight testing of these newer design features with automatic cycling have demonstrated successful shedding of ice when activated at the onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern''

deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, *i.e.*, there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (*e.g.*, during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all Fairchild SA226 and SA227 series airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

This proposed action is one of a number of proposed AD's being issued on airplanes that have been determined to be subject to the same identified unsafe conditions. Currently proposed AD's for other airplanes that are equipped with pneumatic deicing boots address the following airplanes:

Airplane models	Docket No.
Industrie Aeronautiche e Meccaniche, Model Piaggio P–180 Airplanes	99–CE–34–AD
Pilatus Britten-Norman Ltd., BN–2T Series Airplanes	99–CE–35–AD
Pilatus Aircraft Ltd., Models PC–12 and PC–12/45 Airplanes	99–CE–36–AD
Partenavia Costruzioni Aeronauticas, S.p.A., Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes	99–CE–37–AD
Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes	99–CE–38–AD
LET, a.s., Model L–420 Airplanes	99–CE–39–AD
British Aerospace Jetstream, Models 3101 and 3201 Airplanes	99–CE–40–AD
Harbin Aircraft Manufacturing Corp., Model Y12 IV airplanes	99–CE–41–AD
Empresa Brasileira de Aeronautica S.A. (Embraer), Models EMB–110P1 and EMB–110P2 Airplanes	99–CE–42–AD
Dornier Luftfahrt GmbH, 228 Series Airplanes	99–CE–43–AD
Bombardier Inc., DHC–6 Series Airplanes	99–CE–44–AD
The Cessna Aircraft Company, 208 Series Airplanes	99–CE–45–AD
Raytheon Aircraft Company, 90, 99, 100, 200, 300, 1900, and 2000 Series Airplanes	99–CE–46–AD
AeroSpace Technologies Of Australia Pty Ltd., Models N22B and N24A	99–CE–47–AD
Short Brothers & Harland Ltd., Models SC–7 Series 2 and SC–7 Series 3 Airplanes	99–CE–48–AD
The New Piper Aircraft, Inc., PA–31 Series Airplanes	99–CE–49–AD
SOCATA—Groupe AEROSPATIALE, Model TBM 700 Airplanes	99–CE–50–AD
Twin Commander Aircraft Corporation, 600 Series Airplanes	99–CE–51–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild, Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale, Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream, Model BAe ATP Airplanes	99–NM–145–AD
Jetstream, Model 4101 Airplanes	99–NM–146–AD

Airplane models	Docket No.
British Aerospace, Model HS 748 Series Airplanes	99–NM–147–AD
Saab, Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD
CASA, Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier, Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed, Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland Model, DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker, Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers, Model SD3–30/SD3–60/SD3–SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild SA226 and SA227 series airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 160 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Fairchild Aircraft Corporation: Docket No. 99–CE–52–AD.

Applicability: The following model airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

Models

SA226–T, SA226–AT, SA226–T(B), SA227–AT, SA227–TT, SA226–TC, SA227–AC, SA227–PC, SA227–BC, SA227–CC, SA227–DC

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add

comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26580 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–45–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 208, 208A, and 208B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Cessna Aircraft Company (Cessna) Models 208, 208A, and 208B airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–45–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 99–CE–45–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–45–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

On October 1, 1998, the FAA sent letters to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). The letters requested certain icing system design information and operational procedures applicable to their airplanes concerning flight during icing conditions. The letters also requested that manufacturers provide data showing that the aircraft has safe operating characteristics with ice accreted on the protected surfaces (boots). The manufacturers were asked to provide data using the following assumptions: The most adverse ice accumulation possible during operation in the icing envelope specified in part 25, Appendix C of the Federal Aviation Regulations (14 CFR part 25), and that recommended procedures for deicing boot operation were used. Additionally, the manufacturers were asked to provide information related to operation of the autopilot during icing conditions, and for information related to appropriate operating speeds for icing operations.

No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

Subsequent to the collection of those design and operational data, the FAA

held an international conference on ''Inflight Operations in Icing Conditions'', in Washington, DC, on February 2–4, 1999. The purpose of the conference was to discuss the status of the FAA Icing Plan and other related efforts. Additionally, the conference provided a forum for representatives of industry to express their viewpoints on current information related to activation of deicing boots, minimum airspeeds, autopilot operation in icing conditions, flightcrew information needs, and flightcrew training. Certain information presented at that meeting is discussed in this proposed rule in the following section.

Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

Ice Bridging

In the past, concern about ''ice bridging'' on early pneumatic deicing boot designs resulted in the common practice of delaying activation of ice protection. Ice bridging of pneumatic deicing boots occurred when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot tube without being fractured and shed during the ensuing tube deflation. As the deformed ice hardens and accretes additional ice, the deicing boot becomes ineffective in shedding the ''sheath'' of ice. However, ice accumulation resulting from delayed activation may pose an unsafe condition due to the resultant adverse aerodynamic effects on the airplane's performance or handling qualities.

In November 1997, the FAA and the National Aeronautics and Space Administration (NASA) co-sponsored an international workshop on aircraft deicing boot ice bridging. The objective of the workshop was to provide an open forum for investigating the existence of deicing boot bridging and other concerns related to activating ice protection systems at the initial detection of inflight icing. Sixty-seven representatives from airframe and deicing boot manufacturers, various airlines, the pilot community, NASA, the National Transportation Safety Board, non-US civil aviation authorities, and the FAA participated. At the workshop no evidence was presented to substantiate that aircraft with modern deicing boot designs experience ice bridging. The general consensus of the workshop participants was that ice bridging is not a problem for modern pneumatic deicing boot designs due to the use of higher air supply pressures, faster boot inflation and deflation cycles, and smaller boot chambers. Icing wind tunnel and flight testing of these newer design features with automatic cycling have demonstrated successful shedding of ice when activated at the onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern'' deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, i.e., there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (e.g., during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all Cessna Models 208, 208A, and 208B airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

This proposed action is one of a number of proposed AD's being issued on airplanes that have been determined to be subject to the same identified unsafe conditions. Currently proposed AD's for other airplanes that are equipped with pneumatic deicing boots address the following airplanes:

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The New Piper Aircraft, Inc., PA–31 Series Airplanes	99–CE–49–AD
SOCATA—Groupe AEROSPATIALE, Model TBM 700 Airplanes	99–CE–50–AD
Twin Commander Aircraft Corporation 600 Series Airplanes	99–CE–51–AD
Fairchild Aircraft Corporation, SA226 and SA227 Series Airplanes	99–CE–52–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild, Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale, Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream Model BAe ATP Airplanes	99–NM–145–AD
Jetstream Model 4101 Airplanes	99–NM–146–AD
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD
Saab, Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers, Model SD3–30/SD3–60/SD3–SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Cessna Models 208, 208A, and 208B airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 576 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Cessna Aircraft Company: Docket No. 99–CE–45–AD.

Applicability: Models 208, 208A, and 208B airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26579 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–53–AD]

RIN 2120–AA64

Airworthiness Directives; The Cessna Aircraft Company Models 425 and 441 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all The Cessna Aircraft Company (Cessna) Models 425 and 441 airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–53–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 99–CE–53–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–53–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

On October 1, 1998, the FAA sent letters to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). The letters requested certain icing system design information and operational procedures applicable to their airplanes concerning flight during icing conditions. The letters also requested that manufacturers provide data showing that the aircraft has safe operating characteristics with ice accreted on the protected surfaces (boots). The manufacturers were asked to provide data using the following assumptions: The most adverse ice accumulation possible during operation in the icing envelope specified in part 25, Appendix C of the Federal Aviation Regulations (14 CFR part 25), and that recommended procedures for deicing boot operation were used. Additionally, the manufacturers were asked to provide information related to operation of the autopilot during icing conditions, and for information related to appropriate operating speeds for icing operations.

No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

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Ice Bridging

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onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

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The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern'' deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

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The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all Cessna Models 425 and 441 airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

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McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream Model BAe ATP Airplanes	99–NM–145–AD
Jetstream Model 4101 Airplanes	99–NM–146–AD
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD
Saab Model SF340A/SAAB 340B/SAAB 2000, Series Airplanes	99–NM–148–AD
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed Model 1329–23 and 1329–25, (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker Model F27 Mark, 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Cessna Models 425 and 441 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 416 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

The Cessna Aircraft Company: Docket No. 99–CE–53–AD.

Applicability: Models 425 and 441 airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon

annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26578 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–46–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company 90, 99, 100, 200, 300, 1900, and 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Raytheon Aircraft Company (Raytheon) 90, 99, 100, 200, 300, 1900, and 2000 series airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 99–CE–46–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

On October 1, 1998, the FAA sent letters to certain manufacturers of airplanes certified in accordance with

part 25 of the Federal Aviation Regulations (14 CFR part 25). The letters requested certain icing system design information and operational procedures applicable to their airplanes concerning flight during icing conditions. The letters also requested that manufacturers provide data showing that the aircraft has safe operating characteristics with ice accreted on the protected surfaces (boots). The manufacturers were asked to provide data using the following assumptions: The most adverse ice accumulation possible during operation in the icing envelope specified in part 25, Appendix C of the Federal Aviation Regulations (14 CFR part 25), and that recommended procedures for deicing boot operation were used. Additionally, the manufacturers were asked to provide information related to operation of the autopilot during icing conditions, and for information related to appropriate operating speeds for icing operations.

No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

Subsequent to the collection of those design and operational data, the FAA held an international conference on ''Inflight Operations in Icing Conditions'', in Washington, DC, on February 2–4, 1999. The purpose of the conference was to discuss the status of the FAA Icing Plan and other related efforts. Additionally, the conference provided a forum for representatives of industry to express their viewpoints on current information related to activation of deicing boots, minimum airspeeds, autopilot operation in icing conditions, flightcrew information needs, and flightcrew training. Certain information presented at that meeting is discussed in this proposed rule in the following section.

Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

Ice Bridging

In the past, concern about ''ice bridging'' on early pneumatic deicing boot designs resulted in the common practice of delaying activation of ice protection. Ice bridging of pneumatic deicing boots occurred when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot tube without being fractured and shed during the ensuing tube deflation. As the deformed ice hardens and accretes additional ice, the deicing boot becomes ineffective in shedding the ''sheath'' of ice. However, ice accumulation resulting from delayed activation may pose an unsafe condition due to the resultant adverse aerodynamic effects on the airplane's performance or handling qualities.

In November 1997, the FAA and the National Aeronautics and Space Administration (NASA) co-sponsored an international workshop on aircraft deicing boot ice bridging. The objective of the workshop was to provide an open forum for investigating the existence of deicing boot bridging and other concerns related to activating ice protection systems at the initial detection of inflight icing. Sixty-seven representatives from airframe and deicing boot manufacturers, various airlines, the pilot community, NASA, the National Transportation Safety Board, non-US civil aviation authorities, and the FAA participated. At the workshop no evidence was presented to substantiate that aircraft with modern deicing boot designs experience ice bridging. The general consensus of the workshop participants was that ice bridging is not a problem for modern pneumatic deicing boot designs due to the use of higher air supply pressures, faster boot inflation and deflation cycles, and smaller boot chambers. Icing wind tunnel and flight testing of these newer design features with automatic cycling have demonstrated successful shedding of ice when activated at the onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern'' deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, i.e., there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of

data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (e.g., during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all Raytheon 90, 99, 100, 200, 300, 1900, and 2000 series airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

This proposed action is one of a number of proposed AD's being issued on airplanes that have been determined to be subject to the same identified unsafe conditions. Currently proposed AD's for other airplanes that are equipped with pneumatic deicing boots address the following airplanes:

Airplane models	Docket No.
Industrie Aeronautiche e Meccaniche, Model Piaggio P–180 Airplanes	99–CE–34–AD
Pilatus Britten-Norman Ltd., BN–2T Series Airplanes	99–CE–35–AD
Pilatus Aircraft Ltd., Models PC–12 and PC–12/45 Airplanes	99–CE–36–AD
Partenavia Costruzioni Aeronauticas, S.p.A., Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes	99–CE–37–AD
Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes	99–CE–38–AD
LET, a.s., Model L–420 Airplanes	99–CE–39–AD
British Aerospace, Jetstream Models 3101 and 3201 Airplanes	99–CE–40–AD
Harbin Aircraft Manufacturing Corp., Model Y12 IV airplanes	99–CE–41–AD
Empresa Brasileira de Aeronautica S.A. (Embraer) Models EMB–110P1 and EMB–110P2 Airplanes	99–CE–42–AD
Dornier Luftfahrt GmbH, 228 Series Airplanes	99–CE–43–AD
Bombardier Inc., DHC–6 Series Airplanes	99–CE–44–AD
The Cessna Aircraft Company, 208 Series Airplanes	99–CE–45–AD
AeroSpace Technologies Of Australia Pty Ltd., Models N22B and N24A	99–CE–47–AD
Short Brothers & Harland Ltd., Models SC–7 Series 2 and SC–7 Series 3 Airplanes	99–CE–48–AD
The New Piper Aircraft, Inc., PA–31 Series Airplanes	99–CE–49–AD
SOCATA—Groupe AEROSPATIALE, Model TBM 700 Airplanes	99–CE–50–AD
Twin Commander Aircraft Corporation, 600 Series Airplanes	99–CE–51–AD
Fairchild Aircraft Corporation, SA226 and SA227 Series Airplanes	99–CE–52–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream Model BAe ATP Airplanes	99–NM–145–AD
Jetstream Model 4101 Airplanes	99–NM–146–AD
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon 90, 99, 100, 200, 300, 1900, and 2000 series airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 2732 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of

this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Raytheon Aircraft Company (Type Certificates formerly held by the Beech Aircraft Corporation): Docket No. 99–CE–46–AD.

Applicability: The following model airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

Models

B90, C90, C90A, E90, F90, H90 (T–44A), 99, 99A, 99A (FACH), A99, A99A, B99, C99, 100, A100 (U–21F), A100A, A100C, B100, 200 (A100–1 (U–21J)), 200C, 200CT, 200T, A200 (C–12A) or (C–12C), A200C (UC–12B), A200CT (C–12D) or (FWC–12D) or (RC–12D) or (C–12F) or (RC–12G) or (RC–12H) or (RC–12K) or (RC–12P), B200, B200C (C–12F) or (UC–12F) or (UC–12M) or (C–12R), B200CT, B200T, 300, B300, 300LW, B300C, 1900, 1900C (C–12J), 1900D, and 2000

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26577 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–51–AD]

RIN 2120–AA64

Airworthiness Directives; Twin Commander Aircraft Corporation 600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Twin Commander Aircraft Corporation (Twin Commander) 600 series airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–51–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 99–CE–51–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–51–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

On October 1, 1998, the FAA sent letters to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). The letters requested certain icing system design information and operational procedures applicable to their airplanes concerning flight during icing conditions. The letters also requested that manufacturers provide data showing that the aircraft has safe operating characteristics with ice accreted on the protected surfaces (boots). The manufacturers were asked to provide data using the following assumptions: The most adverse ice accumulation possible during operation in the icing envelope specified in part 25, Appendix C of the Federal Aviation Regulations (14 CFR part 25), and that recommended procedures for deicing boot operation were used. Additionally, the manufacturers were asked to provide information related to operation of the autopilot during icing conditions, and for information related to appropriate operating speeds for icing operations.

No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

Subsequent to the collection of those design and operational data, the FAA held an international conference on ''Inflight Operations in Icing Conditions'', in Washington, DC, on February 2–4, 1999. The purpose of the conference was to discuss the status of the FAA Icing Plan and other related efforts. Additionally, the conference provided a forum for representatives of industry to express their viewpoints on current information related to activation of deicing boots, minimum airspeeds, autopilot operation in icing conditions, flightcrew information needs, and flightcrew training. Certain information presented at that meeting is discussed in this proposed rule in the following section.

Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

Ice Bridging

In the past, concern about ''ice bridging'' on early pneumatic deicing boot designs resulted in the common practice of delaying activation of ice protection. Ice bridging of pneumatic deicing boots occurred when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot tube without being

fractured and shed during the ensuing tube deflation. As the deformed ice hardens and accretes additional ice, the deicing boot becomes ineffective in shedding the ''sheath'' of ice. However, ice accumulation resulting from delayed activation may pose an unsafe condition due to the resultant adverse aerodynamic effects on the airplane's performance or handling qualities.

In November 1997, the FAA and the National Aeronautics and Space Administration (NASA) co-sponsored an international workshop on aircraft deicing boot ice bridging. The objective of the workshop was to provide an open forum for investigating the existence of deicing boot bridging and other concerns related to activating ice protection systems at the initial detection of inflight icing. Sixty-seven representatives from airframe and deicing boot manufacturers, various airlines, the pilot community, NASA, the National Transportation Safety Board, non-US civil aviation authorities, and the FAA participated. At the workshop no evidence was presented to substantiate that aircraft with modern deicing boot designs experience ice bridging. The general consensus of the workshop participants was that ice bridging is not a problem for modern pneumatic deicing boot designs due to the use of higher air supply pressures, faster boot inflation and deflation cycles, and smaller boot chambers. Icing wind tunnel and flight testing of these newer design features with automatic cycling have demonstrated successful shedding of ice when activated at the onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern'' deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, i.e., there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (e.g., during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all Twin Commander 600 series airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

This proposed action is one of a number of proposed AD's being issued on airplanes that have been determined to be subject to the same identified unsafe conditions. Currently proposed AD's for other airplanes that are equipped with pneumatic deicing boots address the following airplanes:

Airplane models	Docket No.
Industrie Aeronautiche e Meccaniche, Model Piaggio P–180 Airplanes	99–CE–34–AD
Pilatus Britten–Norman Ltd., BN–2T Series Airplanes	99–CE–35–AD
Pilatus Aircraft Ltd., Models PC–12 and PC–12/45 Airplanes	99–CE–36–AD

Airplane models	Docket No.
Partenavia Costruzioni Aeronauticas, S.p.A., Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes	99–CE–37–AD
Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes	99–CE–38–AD
LET, a.s., Model L–420 Airplanes	99–CE–39–AD
British Aerospace, Jetstream Models 3101 and 3201 Airplanes	99–CE–40–AD
Harbin Aircraft Manufacturing Corp., Model Y12 IV airplanes	99–CE–41–AD
Empresa Brasileira de Aeronautica S.A. (Embraer), Models EMB–110P1 and EMB–110P2 Airplanes	99–CE–42–AD
Dornier Luftfahrt GmbH, 228 Series Airplanes	99–CE–43–AD
Bombardier Inc., DHC–6 Series Airplanes	99–CE–44–AD
The Cessna Aircraft Company, 208 Series Airplanes	99–CE–45–AD
Raytheon Aircraft Company, 90, 99, 100, 200, 300, 1900, and 2000 Series Airplanes	99–CE–46–AD
AeroSpace Technologies Of Australia Pty Ltd., Models N22B and N24A	99–CE–47–AD
Short Brothers & Harland Ltd., Models SC–7 Series 2 and SC–7 Series 3 Airplanes	99–CE–48–AD
The New Piper Aircraft, Inc., PA–31 Series Airplanes	99–CE–49–AD
SOCATA—Groupe AEROSPATIALE, Model TBM 700 Airplanes	99–CE–50–AD
Fairchild Aircraft Corporation, SA226 and SA227 Series Airplanes	99–CE–52–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream Model BAe ATP Airplanes	99–NM–145–AD
Jetstream Model 4101 Airplanes	99–NM–146–AD
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD
Saab, Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD
CASA, Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier, Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed, Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland, Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker, Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers, Model SD3–30/SD3–60/SD3–SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Twin Commander 600 series airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 988 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Twin Commander Aircraft Corporation: Docket No. 99–CE–51–AD.

Applicability: The following model airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

Models

680, 680E, 680F, 680FL, 680FL(P), 680T, 680V, 680W, 681, 690, 685, 690A, 690B, 690C, 690D, 695, 695A, and 695B

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

- Except for certain phases of flight where the AFM specifies that deicing boots should not be used (*e.g.,* take-off, final approach, and landing), compliance with the following is required.
- Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:
  - —At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and
  - —The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.
- The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26576 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–57]

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to Pratt & Whitney JT9D series turbofan engines. That action would have superseded AD 96–25–10 by adding additional affected turbine exhaust case (TEC) assemblies eligible for modification, and adding an additional TEC modification compliance option. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) determined that any additional TEC assemblies could be installed as a TEC modification compliance option through the alternate method of compliance (AMOC) procedure instead. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7130, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD) to supersede AD 96–25–10, amendment 39–9853 (61 FR 66892, December 19, 1996), applicable to Pratt & Whitney (PW) JT9D series turbofan engines, was published in the **Federal Register** on September 2, 1998 (63 FR 46712). The proposed rule would have added additional affected turbine exhaust case (TEC) assemblies that are eligible for modification, and added an additional TEC modification compliance option. That action was prompted by PW issuing Service Bulletin (SB) No. 6157, Revision 2, dated January 28, 1998, that lists by part number (P/N) additional affected TEC assemblies that are eligible for modification, and by PW providing an additional TEC modification compliance option in issuing PW SB No. 6320, dated February 5, 1998. The proposed actions were intended to prevent release of uncontained debris from the TEC following an internal engine failure, which can result in damage to the aircraft.

Since the issuance of that NPRM, the FAA reevaluated the proposed supersedure of AD 96–25–10. The current AD is applicable to certain PW JT9D engines and mandates a modification using specific TEC P/Ns listed in the SBs incorporated by reference. More recent revisions of the SBs referenced in the current AD offer the possibility of using TEC assembly P/Ns not included in the SBs incorporated into the current AD. The proposal sought to expand that list of TEC assembly P/Ns that would serve as compliance with the requirements of the current AD. The proposal, however, did not preserve the original compliance end date of the current AD. The FAA has determined, therefore, that rather than superseding the existing AD, the additional TEC assembly P/Ns may be considered approved alternate methods of compliance (AMOC) using the AMOC process specified in the current AD. This will preserve the current AD's compliance end-date for the modification.

Upon further consideration, the FAA has determined that superseding AD 96–25–10 is unnecessary. Accordingly the proposed rule is hereby withdrawn. AD 96–25–10 in its original form, remains in effect.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory

Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 95–ANE–57, published in the **Federal Register** on September 2, 1998, (63 FR 46712), is withdrawn.

Issued in Burlington, Massachusetts, on October 5, 1999.

Diane Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–26575 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–46–AD]

RIN 2120–AA64

Airworthiness Directives; Allison Engine Company AE 3007 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Allison Engine Company AE 3007 series turbofan engines. This proposal would require removing from service certain cone shafts prior to them reaching new cyclic life limits, and replacing with serviceable parts. This proposal is prompted by additional testing and low cycle fatigue (LCF) life analysis that indicates lower cyclic lives than originally determined. The actions specified by the proposed AD are intended to prevent LCF failure of cone shafts, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by December 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–46–AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–8180, fax (847) 294–7834.

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 should 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 99–NE–46–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, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–46–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

Allison Engine Company, the manufacturer of models AE 3007A, AE 3007A1, AE 3007A1/1, AE 3007A1/2, AE 3007A1/3, AE 3007A1/P, and AE 3007C turbofan engines, recently conducted additional testing and low cycle fatigue (LCF) life analysis of cone shafts, part numbers (P/Ns) 23050728 and 23070729. This testing and analysis revealed maximum approved service lives significantly lower than published maximum approved service lives. To date, however, no failures of cone shafts have been reported. This condition, if not corrected, could result in LCF failure of cone shafts, which could result in an uncontained engine failure and damage to the aircraft.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removal from service of cone shafts, P/Ns 23050728 and 23070729, prior to accumulating new cyclic life limits, depending on engine model.

Economic Analysis

There are approximately 598 engines of the affected design in the worldwide fleet. The FAA estimates that 364 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 150 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $3,921 per engine. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $4,703,244.

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:

Allison Engine Company: Docket No. 99–NE–46–AD.

Applicability: Allison Engine Company Models AE 3007A, AE 3007A1, AE 3007A1/1, AE 3007A1/2, AE 3007A1/3, AE 3007A1/P, and AE 3007C turbofan engines, with cone shafts, part numbers (P/Ns) 23050728 and 23070729, installed. These engines are installed on but not limited to EMBRAER EMB–145 series and Cessna 750 (Citation X) series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent low cycle fatigue failure of cone shafts, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

Removal From Service

(a) For Allison Engine Company models AE 3007A, AE 3007A1, AE 3007A1/1, AE 3007A1/2, and AE 3007C engines, remove cone shafts from service prior to accumulating 7,500 cycles-since-new (CSN), and replace with serviceable parts.

(b) For Allison Engine Company model AE 3007A1/3 engines, remove cone shafts from service prior to accumulating 3,500 CSN, and replace with serviceable parts.

(c) For Allison Engine Company model AE 3007A1/P engines, remove cone shafts from service prior to accumulating 2,400 CSN, and replace with serviceable parts.

New Life Limits

(d) Paragraphs (a), (b), and (c) of this AD establish new, lower life limits for cone shafts, P/Ns 23050728 and 23070729.

(e) Except for the provisions of paragraph (f) of this AD, no cone shafts, P/Ns 23050728 and 23070729, may remain in service exceeding the life limits established in paragraphs (a), (b), and (c) of this AD.

Alternate Method of Compliance

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

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

(g) No special flight permits will be issued.

Issued in Burlington, Massachusetts, on October 5, 1999.

Diane Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–26574 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–48–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers & Harland Ltd. Models SC–7 Series 2 and SC–7 Series 3 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Short Brothers & Harland Ltd. (Shorts) Models SC–7 Series 2 and SC–7 Series 3 airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–48–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 99–CE–48–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–48–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

On October 1, 1998, the FAA sent letters to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). The letters requested certain icing system design information and operational procedures applicable to their airplanes concerning flight during icing conditions. The letters also requested that manufacturers provide data showing that the aircraft has safe operating characteristics with ice accreted on the protected surfaces (boots). The manufacturers were asked to provide data using the following assumptions: The most adverse ice accumulation possible during operation in the icing envelope specified in part 25, Appendix C of the Federal Aviation Regulations (14 CFR part 25), and that recommended procedures for deicing boot operation were used. Additionally, the manufacturers were asked to provide information related to operation of the autopilot during icing conditions, and for information related to appropriate operating speeds for icing operations.

No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

Subsequent to the collection of those design and operational data, the FAA held an international conference on ''Inflight Operations in Icing Conditions'', in Washington, DC, on February 2–4, 1999. The purpose of the conference was to discuss the status of the FAA Icing Plan and other related efforts. Additionally, the conference provided a forum for representatives of industry to express their viewpoints on current information related to activation of deicing boots, minimum airspeeds, autopilot operation in icing conditions, flightcrew information needs, and flightcrew training. Certain information presented at that meeting is discussed in this proposed rule in the following section.

Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

Ice Bridging

In the past, concern about ''ice bridging'' on early pneumatic deicing boot designs resulted in the common practice of delaying activation of ice protection. Ice bridging of pneumatic deicing boots occurred when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot tube without being fractured and shed during the ensuing tube deflation. As the deformed ice hardens and accretes additional ice, the deicing boot becomes ineffective in shedding the ''sheath'' of ice. However, ice accumulation resulting from delayed activation may pose an unsafe condition due to the resultant adverse aerodynamic effects on the airplane's performance or handling qualities.

In November 1997, the FAA and the National Aeronautics and Space Administration (NASA) co-sponsored an international workshop on aircraft deicing boot ice bridging. The objective of the workshop was to provide an open forum for investigating the existence of deicing boot bridging and other concerns related to activating ice protection systems at the initial detection of inflight icing. Sixty-seven representatives from airframe and deicing boot manufacturers, various airlines, the pilot community, NASA, the National Transportation Safety Board, non-US civil aviation authorities, and the FAA participated. At the workshop no evidence was presented to substantiate that aircraft with modern deicing boot designs experience ice bridging. The general consensus of the workshop participants was that ice bridging is not a problem for modern pneumatic deicing boot designs due to the use of higher air supply pressures, faster boot inflation and deflation cycles, and smaller boot chambers. Icing wind tunnel and flight testing of these newer design features with automatic cycling have demonstrated successful shedding of ice when activated at the onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern''

deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, i.e., there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (e.g., during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all Shorts Models SC–7 Series 2 and SC–7 Series 3 airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

This proposed action is one of a number of proposed AD's being issued on airplanes that have been determined to be subject to the same identified unsafe conditions. Currently proposed AD's for other airplanes that are equipped with pneumatic deicing boots address the following airplanes:

Airplane models	Docket No.
Industrie Aeronautiche e Meccaniche, Model Piaggio P–180 Airplanes	99–CE–34–AD
Pilatus Britten-Norman Ltd., BN–2T Series Airplanes	99–CE–35–AD
Pilatus Aircraft Ltd., Models PC–12 and PC–12/45 Airplanes	99–CE–36–AD
Partenavia Costruzioni Aeronauticas, S.p.A., Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes	99–CE–37–AD
Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes	99–CE–38–AD
LET, a.s., Model L–420 Airplanes	99–CE–39–AD
British Aerospace, Jetstream Models 3101 and 3201 Airplanes	99–CE–40–AD
Harbin Aircraft Manufacturing Corp., Model Y12 IV airplanes	99–CE–41–AD
Empresa Brasileira de Aeronautica S.A. (Embraer), Models EMB–110P1 and EMB–110P2 Airplanes	99–CE–42–AD
Dornier Luftfahrt GmbH, Series Airplanes	99–CE–43–AD
Bombardier Inc., DHC–6 Series Airplanes	99–CE–44–AD
The Cessna Aircraft Company, Series Airplanes	99–CE–45–AD
Raytheon Aircraft Company, 90, 99, 100, 200, 300, 1900, and 2000 Series Airplanes	99–CE–46–AD
AeroSpace Technologies Of Australia Pty Ltd., Models N22B and N24A	99–CE–47–AD
The New Piper Aircraft, Inc., PA–31 Series Airplanes	99–CE–49–AD
SOCATA—Groupe AEROSPATIALE, Model TBM 700 Airplanes	99–CE–50–AD
Twin Commander Aircraft Corporation, 600 Series Airplanes	99–CE–51–AD
Fairchild Aircraft Corporation, SA226 and SA227 Series Airplanes	99–CE–52–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream Model BAe ATP Airplanes	99–NM–145–AD
Jetstream Model 4101 Airplanes	99–NM–146–AD

Airplane models	Docket No.
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Shorts Model SC–7 Series 2 and SC–7 Series 3 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 22 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Short Brothers & Harland Ltd.: Docket No. 99–CE–48–AD.

Applicability: Models SC–7 Series 2 and SC–7 Series 3 airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26573 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–44–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Inc. Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Bombardier Inc. (Bombardier) Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–44–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

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Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–44–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

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No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

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February 2–4, 1999. The purpose of the conference was to discuss the status of the FAA Icing Plan and other related efforts. Additionally, the conference provided a forum for representatives of industry to express their viewpoints on current information related to activation of deicing boots, minimum airspeeds, autopilot operation in icing conditions, flightcrew information needs, and flightcrew training. Certain information presented at that meeting is discussed in this proposed rule in the following section.

Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

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During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern'' deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, i.e., there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (e.g., during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to

flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all Bombardier Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

This proposed action is one of a number of proposed AD's being issued on airplanes that have been determined to be subject to the same identified unsafe conditions. Currently proposed AD's for other airplanes that are equipped with pneumatic deicing boots address the following airplanes:

Airplane models	Docket No.
Industrie Aeronautiche e Meccaniche, Model Piaggio P–180 Airplanes	99–CE–34–AD
Pilatus Britten-Norman Ltd., BN–2T Series Airplanes	99–CE–35–AD
Pilatus Aircraft Ltd., Models PC–12 and PC–12/45 Airplanes	99–CE–36–AD
Partenavia Costruzioni Aeronauticas, S.p.A., Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes	99–CE–37–AD
Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes	99–CE–38–AD
LET, a.s., Model L–420 Airplanes	99–CE–39–AD
British Aerospace, Jetstream Models 3101 and 3201 Airplanes	99–CE–40–AD
Harbin Aircraft Manufacturing Corp. Model Y12 IV airplanes	99–CE–41–AD
Empresa Brasileira de Aeronautica S.A. (Embraer), Models EMB–110P1 and EMB–110P2 Airplanes	99–CE–42–AD
Dornier Luftfahrt GmbH, 228 Series Airplanes	99–CE–43–AD
The Cessna Aircraft Company, 208 Series Airplanes	99–CE–45–AD
Raytheon Aircraft Company, 90, 99, 100, 200, 300, 1900, and 2000 Series Airplanes	99–CE–46–AD
AeroSpace Technologies Of Australia Pty Ltd., Models N22B and N24A	99–CE–47–AD
Short Brothers & Harland Ltd., Models SC–7 Series 2 and SC–7 Series 3 Airplanes	99–CE–48–AD
The New Piper Aircraft, Inc., PA–31 Series Airplanes	99–CE–49–AD
SOCATA—Groupe AEROSPATIALE, Model TBM 700 Airplanes	99–CE–50–AD
Twin Commander Aircraft Corporation, 600 Series Airplanes	99–CE–51–AD
Fairchild Aircraft Corporation, SA226 and SA227 Series Airplanes	99–CE–52–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream Model BAe ATP Airplanes	99–NM–145–AD
Jetstream Model 4101 Airplanes	99–NM–146–AD
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed Model 1329–23 and 1329–25, (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Bombardier Models DHC–6–1, DHC–6–100, DHC–6–200, and DHC–6–300 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 162 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by § 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with § 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Bombardier Inc.: Docket No. 99–CE–44–AD.

Applicability: Models DHC–6–1, DHC–6–100, DHC–6–200, DHC–6–300, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by § 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with § 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(c) Special flight permits may be issued in accordance with § 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.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26572 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–49–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. PA–31 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all The New Piper Aircraft, Inc. (Piper) PA–31 series airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–49–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No.99–CE–49–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–49–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

On October 1, 1998, the FAA sent letters to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). The letters requested certain icing system design information and operational procedures applicable to their airplanes concerning flight during icing conditions. The letters also requested that manufacturers provide data showing that the aircraft has safe operating characteristics with ice accreted on the protected surfaces (boots). The manufacturers were asked to provide data using the following assumptions: The most adverse ice accumulation possible during operation in the icing envelope specified in part 25, Appendix C of the Federal Aviation Regulations (14 CFR part 25), and that recommended procedures for deicing boot operation were used. Additionally, the manufacturers were asked to provide information related to operation of the autopilot during icing conditions, and for information related to appropriate operating speeds for icing operations.

No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

Subsequent to the collection of those design and operational data, the FAA held an international conference on ''Inflight Operations in Icing Conditions'', in Washington, DC, on February 2–4, 1999. The purpose of the conference was to discuss the status of the FAA Icing Plan and other related efforts. Additionally, the conference provided a forum for representatives of industry to express their viewpoints on current information related to activation of deicing boots, minimum airspeeds, autopilot operation in icing conditions, flightcrew information needs, and flightcrew training. Certain information presented at that meeting is discussed in this proposed rule in the following section.

Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

Ice Bridging

In the past, concern about ''ice bridging'' on early pneumatic deicing boot designs resulted in the common practice of delaying activation of ice protection. Ice bridging of pneumatic deicing boots occurred when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot tube without being fractured and shed during the ensuing tube deflation. As the deformed ice hardens and accretes additional ice, the deicing boot becomes ineffective in shedding the ''sheath'' of ice. However, ice accumulation resulting from delayed activation may pose an unsafe condition due to the resultant adverse aerodynamic effects on the airplane's performance or handling qualities.

In November 1997, the FAA and the National Aeronautics and Space Administration (NASA) co-sponsored an international workshop on aircraft deicing boot ice bridging. The objective of the workshop was to provide an open forum for investigating the existence of deicing boot bridging and other concerns related to activating ice protection systems at the initial detection of inflight icing. Sixty-seven representatives from airframe and deicing boot manufacturers, various airlines, the pilot community, NASA, the National Transportation Safety Board, non-US civil aviation authorities, and the FAA participated. At the workshop no evidence was presented to substantiate that aircraft with modern deicing boot designs experience ice bridging. The general consensus of the workshop participants was that ice bridging is not a problem for modern pneumatic deicing boot designs due to the use of higher air supply pressures, faster boot inflation and deflation cycles, and smaller boot chambers. Icing wind tunnel and flight testing of these newer design features with automatic cycling have demonstrated successful shedding of ice when activated at the

onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern'' deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, *i.e.*, there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (*e.g.*, during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all Piper PA–31 series airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

This proposed action is one of a number of proposed AD's being issued on airplanes that have been determined to be subject to the same identified unsafe conditions. Currently proposed AD's for other airplanes that are equipped with pneumatic deicing boots address the following airplanes:

Airplane models	Docket No.
Industrie Aeronautiche e Meccaniche, Model Piaggio P–180 Airplanes	99–CE–34–AD
Pilatus Britten-Norman Ltd., BN–2T Series Airplanes	99–CE–35–AD
Pilatus Aircraft Ltd., Models PC–12 and PC–12/45 Airplanes	99–CE–36–AD
Partenavia Costruzioni Aeronauticas, S.p.A., Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes	99–CE–37–AD
Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes	99–CE–38–AD
LET, a.s., Model L–420 Airplanes	99–CE–39–AD
British Aerospace, Jetstream, Models 3101 and 3201 Airplanes	99–CE–40–AD
Harbin Aircraft Manufacturing Corp., Model Y12 IV airplanes	99–CE–41–AD
Empresa Brasileira de Aeronautica S.A. (Embraer), Models EMB–110P1 and EMB–110P2 Airplanes	99–CE–42–AD
Dornier Luftfahrt GmbH, 228 Series Airplanes	99–CE–43–AD
Bombardier Inc., DHC–6 Series Airplanes	99–CD–44–AD
The Cessna Aircraft Company, 208 Series Airplanes	99–CE–45–AD
Raytheon Aircraft Company, 90, 99, 100, 200, 300, 1900, and 2000 Series Airplanes	99–CE–46–AD
AeroSpace Technologies Of Australia Pty Ltd., Models N22B and N24A	99–CE–47–AD
Short Brothers & Harland Ltd., Models SC–7 Series 2 and SC–7 Series 3 Airplanes	99–CE–48–AD
SOCATA—Groupe Aerospatiale, Model TBM 700 Airplanes	99–CE–50–AD
Twin Commander Aircraft Corporation, 600 Series Airplanes	99–CE–51–AD
Fairchild Aircraft Corporation, SA226 and SA227 Series Airplanes	99–CE–52–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD

Airplane models	Docket No.
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes,	99–NM–142–AD
Fairchild, Models F27 and FH227 Series Airplanes,	99–NM–143–AD
Aerospatiale, Models ATR–42/ATR–72 Series Airplanes,	99–NM–144–AD
Jetstream, Model BAe ATP Airplanes,	99–NM–145–AD
Jetstream, Model 4101 Airplanes,	99–NM–146–AD
British Aerospace, Model HS 748 Series Airplanes,	99–NM–147–AD
Saab Model, SF340A/SAAB 340B/SAAB 2000, Series Airplanes	99–NM–148–AD
CASA, Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier, Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed, Model 1329–23 and 1329–25, (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland, Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker, Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers, Model SD3–30/SD3–60/SD3–SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Piper PA–31 series airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 2314 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 FederalAviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

The New Piper Aircraft, Inc.: Docket No. 99–CE–49–AD.

Applicability: The following model airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

Models

PA–31, PA–31–300, PA–31–325, PA–31–350, PA–31P, PA–31T, PA–31T1, PA–31T2, PA–31T3, PA–31P–350

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26570 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–47–AD]

RIN 2120–AA64

Airworthiness Directives; AeroSpace Technologies of Australia Pty Ltd. Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all AeroSpace Technologies of Australia Pty Ltd. (AeroSpace Technologies) Models N22B and N24A airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–47–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 99–CE–47–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–47–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

On October 1, 1998, the FAA sent letters to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). The letters requested certain icing system design information and operational procedures applicable to their airplanes concerning flight during icing conditions. The letters also requested that manufacturers provide data showing that the aircraft has safe operating characteristics with ice accreted on the protected surfaces (boots). The manufacturers were asked to provide data using the following assumptions: The most adverse ice accumulation possible during operation in the icing envelope specified in part 25, Appendix C of the Federal Aviation Regulations (14 CFR part 25), and that recommended procedures for deicing boot operation were used. Additionally, the manufacturers were asked to provide information related to operation of the autopilot during icing conditions, and for information related to appropriate operating speeds for icing operations.

No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

Subsequent to the collection of those design and operational data, the FAA held an international conference on ''Inflight Operations in Icing Conditions'', in Washington, DC, on February 2–4, 1999. The purpose of the conference was to discuss the status of the FAA Icing Plan and other related efforts. Additionally, the conference provided a forum for representatives of industry to express their viewpoints on current information related to activation of deicing boots, minimum airspeeds, autopilot operation in icing conditions, flightcrew information needs, and flightcrew training. Certain information presented at that meeting is discussed in this proposed rule in the following section.

Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

Ice Bridging

In the past, concern about ''ice bridging'' on early pneumatic deicing boot designs resulted in the common practice of delaying activation of ice protection. Ice bridging of pneumatic deicing boots occurred when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot tube without being fractured and shed during the ensuing tube deflation. As the deformed ice hardens and accretes additional ice, the deicing boot becomes ineffective in shedding the ''sheath'' of ice. However, ice accumulation resulting from delayed activation may pose an unsafe condition due to the resultant adverse aerodynamic effects on the airplane's performance or handling qualities.

In November 1997, the FAA and the National Aeronautics and Space Administration (NASA) co-sponsored an international workshop on aircraft deicing boot ice bridging. The objective of the workshop was to provide an open forum for investigating the existence of deicing boot bridging and other concerns related to activating ice protection systems at the initial detection of inflight icing. Sixty-seven representatives from airframe and deicing boot manufacturers, various airlines, the pilot community, NASA, the National Transportation Safety Board, non-US civil aviation authorities, and the FAA participated. At the workshop no evidence was presented to substantiate that aircraft with modern deicing boot designs experience ice bridging. The general consensus of the workshop participants was that ice bridging is not a problem for modern pneumatic deicing boot designs due to the use of higher air supply pressures, faster boot inflation and deflation cycles, and smaller boot chambers. Icing wind tunnel and flight testing of these newer design features with automatic cycling have demonstrated successful shedding of ice when activated at the onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern'' deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, i.e., there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial

boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (*e.g.*, during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all AeroSpace Technologies Models N22B and N24A airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

This proposed action is one of a number of proposed AD's being issued on airplanes that have been determined to be subject to the same identified unsafe conditions. Currently proposed AD's for other airplanes that are equipped with pneumatic deicing boots address the following airplanes:

Airplane models	Docket No.
Industrie Aeronautiche e Meccaniche, Model Piaggio P–180 Airplanes	99–CE–34–AD
Pilatus Britten-Norman Ltd., BN–2T Series Airplanes	99–CE–35–AD
Pilatus Aircraft Ltd., Models PC–12 and PC–12/45 Airplanes	99–CE–36–AD
Partenavia Costruzioni Aeronauticas, S.p.A., Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes	99–CE–37–AD
Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes	99–CE–38–AD
LET, a.s., Model L–420 Airplanes	99–CE–39–AD
British Aerospace, Jetstream Models 3101 and 3201 Airplanes	99–CE–40–AD
Harbin Aircraft Manufacturing Corp., Model Y12 IV airplanes	99–CE–41–AD
Empresa Brasileira de Aeronautica S.A. (Embraer), Models EMB–110P1 and EMB–110P2 Airplanes	99–CE–42–AD
Dornier Luftfahrt GmbH, 228 Series Airplanes	99–CE–43–AD
Bombardier Inc., DHC–6 Series Airplanes	99–CE–44–AD
The Cessna Aircraft Company, 208 Series Airplanes	99–CE–45–AD
Raytheon Aircraft Company, 90, 99, 100, 200, 300, 1900, and 2000 Series Airplanes	99–CE–46–AD
Short Brothers & Harland Ltd., Models SC–7 Series 2 and SC–7 Series 3 Airplanes	99–CE–48–AD
The New Piper Aircraft, Inc., PA–31 Series Airplanes	99–CE–49–AD
SOCATA—Groupe AEROSPATIALE, Model TBM 700 Airplanes	99–CE–50–AD
Twin Commander Aircraft Corporation, 600 Series Airplanes	99–CE–51–AD
Fairchild Aircraft Corporation, SA226 and SA227 Series Airplanes	99–CE–52–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream, Model BAe ATP Airplanes	99–NM–145–AD
Jetstream, Model 4101 Airplanes	99–NM–146–AD
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD
Saab, Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland, Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker, Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers, Model SD3–30/SD3–60/SD3-SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other AeroSpace Technologies Models N22B and N24A airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 10 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Aerospace Technologies of Australia Pty Ltd.: Docket No. 99–CE–47–AD.

Applicability: Models N22B and N24A airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26571 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–50–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all SOCATA—Groupe AEROSPATIALE (SOCATA) Model TBM 700 airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

DATES: Comments must be received on or before December 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–50–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 should 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 that summarizes 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 No. 99–CE–50–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–50–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On January 9, 1997, an Empresa Brazileira de Aeronautica, S.A. (EMBRAER) Model EMB–120RT series airplane was involved in an uncommanded roll excursion and consequent rapid descent that resulted in an accident near Monroe, Michigan. The post-accident investigation conducted by the National Transportation Safety Board (NTSB) concluded that the airplane had accumulated a thin, rough layer of ice on its lifting surfaces. That accumulation of ice, in combination with the slowing of the airplane to an airspeed inappropriate for the icing conditions in which the airplane was flying, resulted in loss of control that was not corrected before the airplane impacted the ground. The NTSB also concluded that the flight crew did not activate the wing and tail pneumatic deicing boots. An NTSB recommendation related to this accident requested that the FAA mandate that pneumatic deicing boots be turned on as soon as the airplane enters icing conditions.

The FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. That factor was present in the accident discussed previously and, as such, constitutes an unsafe condition.

Request for Information

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No information received, as a result of that request, has caused the FAA to reconsider the previous conclusion that an unsafe condition may exist.

Public Meeting

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Delayed Activation of Pneumatic Deicing Boots

In accordance with manufacturer instructions and FAA-approved airplane flight manual (AFM) procedures, the flightcrews of most airplanes equipped with pneumatic deicing boots delay the initial activation of the boots until a certain quantity of ice has accumulated on the protected surfaces (boots). Some crews routinely wait for ¼ to ½ inch of ice to accumulate, and at least one airplane type is routinely flown with up to 1½ inches of ice on the protected surfaces before the initial activation of the deicing boots.

Ice Bridging

In the past, concern about ''ice bridging'' on early pneumatic deicing boot designs resulted in the common practice of delaying activation of ice protection. Ice bridging of pneumatic deicing boots occurred when a thin layer of ice is sufficiently plastic to deform to the shape of the inflated deicing boot tube without being fractured and shed during the ensuing tube deflation. As the deformed ice hardens and accretes additional ice, the deicing boot becomes ineffective in shedding the ''sheath'' of ice. However, ice accumulation resulting from delayed activation may pose an unsafe condition due to the resultant adverse aerodynamic effects on the airplane's performance or handling qualities.

In November 1997, the FAA and the National Aeronautics and Space Administration (NASA) co-sponsored an international workshop on aircraft deicing boot ice bridging. The objective of the workshop was to provide an open forum for investigating the existence of deicing boot bridging and other concerns related to activating ice protection systems at the initial detection of inflight icing. Sixty-seven representatives from airframe and deicing boot manufacturers, various airlines, the pilot community, NASA, the National Transportation Safety Board, non-U.S. civil aviation authorities, and the FAA participated. At the workshop no evidence was presented to substantiate that aircraft with modern deicing boot designs experience ice bridging. The general consensus of the workshop participants was that ice bridging is not a problem for modern pneumatic deicing boot designs due to the use of higher air supply pressures, faster boot inflation and deflation cycles, and smaller boot chambers. Icing wind tunnel and flight testing of these newer design features with automatic cycling have demonstrated successful shedding of ice when activated at the onset of ice accretion, with ice not shed on the initial deicing boot cycle continuing to increase in thickness and being shed during subsequent cycles.

During the previously discussed November 1997 international workshop, the inability of flightcrews to accurately gauge wing and control surfaces ice accretion thickness before activating the deicing boots was recognized. Also, increased airplane drag resulting from ice accretion was recognized as a potential contributing cause of inadvertent airspeed loss that characterized most in-flight icing related accidents and incidents. Two airframe manufacturers, whose products comprise a substantial percentage of the turbopropeller transport fleet, reported that, because of these concerns they recommend activating the automatic airframe deicing system at first onset of airframe icing. Those manufacturers have received no reports of deicing boot ice bridging events for these airplanes.

The FAA considers that ice accumulation on protected surfaces due to delayed boot activation constitutes a potential safety concern. However, the FAA recognizes that not all airplanes may be equipped with ''modern'' deicing boots (as that term is used in this NPRM). The FAA specifically invites the submission of comments and other data regarding the effects of this proposed AD on airplanes equipped with older pneumatic deicing boots, including arguments for the retention of existing activation delays for these older-style deicing boots.

Residual Ice

During the February conference, the attendees agreed that the airplane is at risk while the airplane is accreting ice, and that the airplane must be adequately protected to ensure that no adverse handling and performance characteristics develop. An additional concern discussed at the conference was the possibility that early activation of the ice protection system might degrade the ice shedding effectiveness of the deicing boots, resulting in increased residual ice, i.e., there would be more ice fragments remaining on the deicing boots than would exist if a more substantial quantity of ice was allowed to form before the first ice shedding cycle. However, the FAA does not concur. No data has been provided that shows that the presence of residual ice following an earlier activation of the deicing boots is more hazardous than delaying cycling of the boots until the ice accretes to a larger, specific thickness. In fact, testing in icing conditions has shown that residual ice remaining on the boots after the initial boot cycle is removed during subsequent cycles.

As reported during the November 1997 international workshop, manufacturers of a substantial percentage of the turbopropeller transport fleet have reported satisfactory in-flight icing operations of their products with recommended procedures to activate operation of the deicing boots in the automatic mode at the onset of airframe icing.

Therefore, the FAA considers that the activation of pneumatic wing and tail deicing boots at the first signs of ice accumulation is warranted. The FAA specifically invites the submission of data to substantiate that operating the deicing boots at the first sign of ice accretions is more hazardous than delaying boot activation until a specific thickness of ice has accumulated.

Other Considerations

The FAA recognizes that there may be some phases of flight during which use of the deicing boots may be inappropriate. For example, a deicing boot inflation cycle that begins immediately before or during the landing flare or the takeoff rotation may cause unexpected loss of lift or other adverse aerodynamic events. This proposed AD explicitly does not supersede procedures in the AFM that prohibit using deicing boots for certain phases of flight (e.g., during take-off, final approach, and landing).

The FAA specifically invites the submission of comments and other data regarding adverse effects that may occur during specific phases of flight, including takeoff, final approach, or landing. Any recommended speed restrictions or other operational procedures that would be necessary in order to mitigate any adverse aerodynamic effects of deicing boot inflation during critical phases of flight should be fully explained and documented.

The FAA's Determination

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set that permits waiting to activate the deicing equipment. In light of this information and based on reports received, the FAA considers that certain procedures should be included in the Limitations Section of the AFM for all SOCATA Model TBM 700 airplanes to require immediate activation of the ice protection systems when any ice accumulation is detected on the airplane.

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Pilatus Britten-Norman Ltd., BN–2T Series Airplanes	99–CE–35–AD
Pilatus Aircraft Ltd., Models PC–12 and PC–12/45 Airplanes	99–CE–36–AD
Partenavia Costruzioni Aeronauticas, S.p.A., Models AP68TP 300 ''Spartacus'' and AP68TP 600 ''Viator'' Airplanes	99–CE–37–AD
Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes	99–CE–38–AD
LET, a.s., Model L–420 Airplanes	99–CE–39–AD
British Aerospace, Jetstream Models 3101 and 3201 Airplanes	99–CE–40–AD
Harbin Aircraft Manufacturing Corp., Model Y12 IV airplanes	99–CE–41–AD
Empresa Brasileira de Aeronautica S.A. (Embraer), Models EMB–110P1 and EMB–110P2 Airplanes	99–CE–42–AD
Dornier Luftfahrt GmbH, 228 Series Airplanes	99–CE–43–AD
Bombardier, Inc., DHC–6 Series Airplanes	99–CE–44–AD
The Cessna Aircraft Company, 208 Series Airplanes	99–CE–45–AD
Raytheon Aircraft Company, 90, 99, 100, 200, 300, 1900, and 2000 Series Airplanes	99–CE–46–AD
AeroSpace Technologies Of Australia Pty Ltd., Models N22B and N24A	99–CE–47–AD
Short Brothers & Harland Ltd., Models SC–7 Series 2 and SC–7 Series 3 Airplanes	99–CE–48–AD
The New Piper Aircraft, Inc., PA–31 Series Airplanes	99–CE–49–AD
Twin Commander Aircraft Corporation, 600 Series Airplanes	99–CE–51–AD
Fairchild Aircraft Corporation, SA226 and SA227 Series Airplanes	99–CE–52–AD
The Cessna Aircraft Company, Models 425 and 441 Airplanes	99–CE–53–AD
Cessna Aircraft Company, Models 500, 550, and 560 Airplanes	99–NM–136–AD
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD
Frakes Aviation, Model, G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD
Fairchild Models F27 and FH227 Series Airplanes	99–NM–143–AD
Aerospatiale Models ATR–42/ATR–72 Series Airplanes	99–NM–144–AD
Jetstream Model BAe ATP Airplanes	99–NM–145–AD
Jetstream Model 4101 Airplanes, British Aerospace Model HS 748 Series Airplanes	99–NM–146–AD
	99–NM–147–AD
Saab Model SF340A/SAAB 340B/SAAB 2000, Series Airplanes	99–NM–148–AD
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD
Dornier Model 328–100 Series Airplanes	99–NM–150–AD
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD
Short Brothers Model SD3–30/SD3–60/SD3-SHERPA Series Airplanes	99–NM–154–AD

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other SOCATA Model TBM 700 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Cost Impact

The FAA estimates that 72 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed AFM revisions. Accomplishing the proposed AFM revision requirements of this NPRM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with the proposed AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of the proposed AD is the time it would take each owner/operator of the affected airplanes to insert the information into the AFM.

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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

SOCATA—Groupe Aerospatiale: Docket No. 99–CE–50–AD.

Applicability: Model TBM 700 airplanes, all serial numbers equipped with pneumatic deicing boots, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To assure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice.''

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 4, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–26569 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4]

RIN 0960–AF03

Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Addition of Medical Criteria for Evaluating Down Syndrome in Adults

AGENCY: Social Security Administration (SSA).

ACTION: Proposed rule.

SUMMARY: We are proposing to add a new listing to provide for the evaluation of Down syndrome for adults. Our current regulations only include a listing for evaluating Down syndrome in children; we evaluate claims filed by adults with Down syndrome under other listings. We believe that establishing a separate listing for this disorder in the adult listings will acknowledge the lifelong impact and severity of this disorder, and will simplify our adjudication of claims filed by adults with Down syndrome.

DATES: To be sure that your comments are considered, we must receive them no later than December 13, 1999.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, PO Box 17703, Baltimore, MD 21235–7703, sent by telefax to (410) 966–2830, sent by E-mail to regulations@ssa.gov, or delivered to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Michelle Hungerman, Social Insurance Specialist, Office of Disability, Social Security Administration, 3–A–9 Operations Building, 6401 Security Boulevard, Baltimore, Maryland, 21235–6401, (410) 965–2289 or TTY (410) 966–5609.

SUPPLEMENTARY INFORMATION:

Background

We pay disability benefits under title II of the Social Security Act (the Act) to disabled individuals who are insured under the Act. We also pay child's insurance benefits based on disability and widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured individuals. In addition, we pay Supplemental Security Income (SSI) payments under title XVI of the Act to persons who are disabled and who have limited income and resources. For adults under both the title II and title XVI programs, and for persons claiming child's insurance benefits based on disability under title II, ''disability'' means that an impairment(s) results in an inability to engage in any substantial gainful activity. Disability must also be the result of medically determinable physical or mental impairment(s) that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least 12 months.

Our longstanding regulations at §§ 404.1520 and 416.920 provide for a five-step sequential evaluation process to determine if someone is disabled. At step 3 of this process, we decide whether an individual who is not engaging in substantial gainful activity and who has an impairment(s) that is severe (steps 1 and 2), has an impairment(s) that meets or is medically equivalent in severity to the criteria of an impairment in the listings. The listings describe, for each of several major body systems, impairments that are considered severe enough to prevent a person from doing any gainful activity. Although the listings are contained only in part 404, they are incorporated by reference in the SSI program by § 416.925 of our regulations.

The listings are divided into part A and part B. The criteria in part A are applied in evaluating impairments of persons age 18 or over. The criteria in part B are applied in evaluating impairments of persons under age 18. (See §§ 404.1525 and 416.925.)

Explanation of Proposed Regulation

We propose to add a new listing to evaluate claims filed by individuals age 18 or older who have non-mosaic Down syndrome. Since 1990, we have evaluated claims for individuals under age 18 who have non-mosaic Down syndrome under listing 110.06, but we do not have a Down syndrome listing for adults. Instead, we evaluate most of these claims under listing 12.05-Mental Retardation—which requires measurement of intellectual functioning. Almost all adults with Down syndrome also have moderate to severe musculoskeletal abnormalities, and many have other impairments, including cardiac, gastrointestinal, oral/facial and skeletal abnormalities. Therefore, we may also evaluate the physical impairments that such individuals may have under the appropriate body system listings.

For individuals under age 18, current listing 110.06 represents what we have known for some time: That when we obtain appropriate evidence, virtually all individuals who have non-mosaic Down syndrome will be found disabled under our rules. Therefore, the listing is met by showing that the individual has Down syndrome (excluding mosaic Down syndrome) that has been established by clinical findings, including the characteristic physical features, and laboratory evidence, including chromosomal analysis.

When listing 110.06 is met, disability is established from birth. In recognition of the fact that Down syndrome rarely, if ever, improves to the point that an individual would not meet our definition of disability, we now propose to simplify our adjudication of cases of all individuals with non-mosaic Down syndrome by providing a corresponding listing in part A. For example, the addition of this listing will simplify the process of performing disability redeterminations at age 18 for individuals who are eligible for SSI as children on the basis of non-mosaic Down syndrome. Even though it would be the only listing in section 10.00, we propose to number the new listing as listing 10.06, to correspond to listing 110.06 in part B.

As in the childhood listing, proposed listing 10.06 would provide that an individual age 18 or older who has non-mosaic Down syndrome established by clinical and laboratory findings, including chromosomal analysis, is disabled. We also propose new sections 10.00A and 10.00B in the preface to the listing to provide rules for documenting non-mosaic Down syndrome. The proposed rules are similar to those in the corresponding sections of part B, 110.00A and 110.00B. Proposed 10.00A includes a provision similar to one in current 110.00A.2 that an individual with Down syndrome is considered disabled since birth. We included this in the proposed rule for adults to establish that the 12-month duration requirement has been met.

As in part B, we are proposing to exclude mosaic Down syndrome from the listing. Mosaic Down syndrome is a rare form of the condition that is manifested in a wide range of impairment severity. The condition can be profound and disabling, but it can also be so slight as to go undetected. Therefore, it would not be appropriate to conclude that the impairment is always disabling. However, we will still find individuals with mosaic Down syndrome disabled if their impairments meet or are medically equivalent in severity to the requirements of other listings, or, if their impairments are severe, at the fifth step of the sequential evaluation process based on a residual functional capacity assessment and consideration of their age, education, and work experience.

Finally, we are proposing a new section 10.00C. This paragraph provides guidance for evaluating other chromosomal abnormalities.

Other Changes

Section 10.00 of part A of the listings is currently reserved for future use. We are now proposing to add a new preface (10.00A, 10.00B, and 10.00C) and new listing 10.06 in this section. For this reason, and because Down syndrome often has physical as well as mental effects, we propose the heading ''Multiple body systems'' for this section. We are also proposing to make minor editorial changes to the introductory text and table of contents to part A of appendix 1, to reflect the provisions of the proposed rule.

Clarity of This Proposed Rule

Executive Order 12866 and the President's memorandum of June 1, 1998 (63 FR 31885), require each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make this proposed rule easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- What else could we do to make the rule easier to understand?

Electronic Versions

The electronic file of this document is available on the internet at <*http://www.access.gpo.gov/su__docs/aces/aces140.html*>. It is also available on the internet site for SSA (*i.e.*, ''SSA Online'') at *http://www.ssa.gov/*.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this proposed rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

We certify that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because it only affects individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

This proposed regulation imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

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: September 14, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend part 404, subpart P, of chapter III of title 20 of the Code of Federal Regulations to read as follow:

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

1. The authority citation for subpart P of part 404 continues to read as follow:

Authority: Secs. 202, 205(a), (b) and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b) and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5); sec. 211(b), Pub.L. 104–193, 110 Stat. 2105, 2189.

Appendix 1 to Subpart P of Part 404—[Amended]

2. Appendix 1 to subpart P of part 404 is amended as follows:

a. Item 11 of the introductory text before Part A of appendix 1 is revised.

b. The Table of Contents for part A of appendix 1 is amended by adding section 10.00.

c. Section 10.00 is added to Part A of appendix 1.

The added and revised text reads as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

* * * * *

11. Multiple Body Systems (10.00 and 110.00): July 2, 2001.

* * * * *

Part A

* * * * *

10.00 Multiple Body Systems

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10.00 MULTIPLE BODY SYSTEMS

A. Down syndrome (except for mosaic Down syndrome (see 10.00C)) established by clinical findings, including the characteristic physical features, and laboratory evidence is considered to meet the requirement of listing 10.06, commencing at birth.

B. Documentation must include confirmation of a positive diagnosis by a clinical description of the usual abnormal physical findings associated with the condition and definitive laboratory tests, including chromosomal analysis. Medical evidence that is persuasive that a positive diagnosis has been confirmed by appropriate laboratory testing, at some time prior to evaluation, is acceptable in lieu of a copy of the actual laboratory report.

C. Other chromosomal abnormalities, *e.g.,* mosaic Down syndrome, fragile X syndrome, phenylketonuria, and fetal alcohol syndrome, produce a pattern of multiple impairments but manifest in a wide range of impairment severity. Therefore, the effects of these impairments should be evaluated under the affected body system.

10.01 Category of Impairments, Multiple Body Systems

10.06 *Down syndrome (excluding mosaic Down syndrome*) established by clinical and laboratory findings, as described in 10.00B. Consider the individual disabled from birth.

* * * * *

[FR Doc. 99–26459 Filed 10–8–99; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

[Regulations No. 22]

RIN 0960–AF05

Assignment of Social Security Numbers (SSN) for Nonwork Purposes

AGENCY: Social Security Administration (SSA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: SSA is providing advance notice of proposed rulemaking regarding when we will assign an SSN to an alien who is legally in the United States (U.S.) but not under authority of law permitting him or her to work in the U.S. We are considering a proposal to assign an SSN to an alien who is legally in the U.S. but does not have authorization to work only if there is a Federal statute or regulation that requires the alien to furnish an SSN to receive a federally-funded benefit or service. Under such a proposal, we would no longer assign an SSN to an alien if the alien's sole reason for applying for the SSN is to satisfy a State or local statute or regulation that requires an individual to furnish an SSN in order to receive a benefit or service. The intent of such a proposed change would be to reduce the possibility of fraud through misuse of SSNs.

DATES: To be sure that your comments are considered, we must receive them no later than December 13, 1999.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703, sent by telefax to (410) 966–2830, sent by E-mail to *''regulations@ssa.gov,''* or delivered to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8:00 A.M. and 4:30 P.M. on regular business days. Comments may be inspected during these hours by making arrangements with the contact person shown below.

Electronic Availability

This document is also available as an electronic file on date of publication in the **Federal Register** on the Internet site for the Government Printing Office at http://www.access.gpo.gov/su__docs/aces/acess140.html. It is also available on the Internet site for SSA (*i.e.,* ''SSA Online'') at http://www.ssa.gov.

FOR FURTHER INFORMATION CONTACT: Nancy Grace, Social Insurance Specialist, Office of Program Benefits, 3–R–1 Operations Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7911 or TTY (410) 966–5609.

SUPPLEMENTARY INFORMATION:

Background

In implementing section 205(c)(2)(B)(i) of the Social Security Act (the Act) and our regulations at 20 CFR 422.104 and 422.107, SSA currently assigns SSNs to aliens who:

- Are lawfully admitted to the U.S. either for permanent residence or under other authority of law permitting them to engage in employment in the U.S.; or
- Are legally in the U.S. but not under authority of law permitting them to engage in employment, but only for a valid nonwork purpose; or
- Cannot provide evidence of alien status, reside either in or outside the U.S. and are entitled to federally-funded benefits for which a Federal statute or regulation requires an SSN—for example, Social Security benefits, Supplemental Security Income benefits, Medicaid, or Temporary Assistance for Needy Families.

Current SSA operational instructions permit SSA to assign an SSN for a nonwork purpose to aliens who:

- Cannot provide evidence of alien status, reside either in or outside the U.S., and are entitled to federally-funded benefits for which a Federal statute or regulation requires an SSN; or
- Are legally in the U.S., if there is a Federal, State, or local statute or regulation that requires them to provide SSNs to get a particular benefit or service.

In the case of such a State or local statute or regulation, the statute or regulation must be in accordance with Federal law—that is, related to the administration of taxes, general public assistance, driver licensing, or motor vehicle registration (section 205(c)(2)(C)(i) of the Act). If entitlement to a State or local benefit or service is the alien's sole reason for requesting an SSN, the alien must submit a letter from the applicable government entity. The letter must identify the alien, describe the State or local benefit/service for which an SSN is required, and state that the alien meets all requirements for the benefit/service except for providing an SSN.

If SSA issues an SSN to an alien for a nonwork purpose, the SSN card is marked with a nonwork legend that reads ''NOT VALID FOR EMPLOYMENT.'' If earnings are reported to SSA on an SSN issued for a nonwork purpose, SSA provides the Immigration and Naturalization Service (INS) with information regarding the reported earnings pursuant to section 290(c)(2) of the Immigration and Nationality Act. We take great care to ensure that only eligible applicants are assigned SSNs and that SSA's records accurately reflect the basis for assignment of the SSNs.

In July 1996, the Internal Revenue Service (IRS) began assigning Individual Taxpayer Identification Numbers for tax purposes to individuals who are not eligible for SSNs but who need to report income for tax purposes. This change in IRS policy eliminated one of the major reasons that aliens not authorized to work had sought SSNs for nonwork purposes. On October 22, 1998, SSA published final rules at 63 FR 56552 that eliminated the need for an SSN for tax reporting purposes as a valid nonwork reason for assignment of an SSN.

With the July 1996 IRS change, the remaining valid nonwork reasons for assignment of SSNs have generally been limited to eligibility for federally-funded benefits and use of the SSNs by State governments to administer statutes governing the issuing of driver's licenses and the registering of motor vehicles.

Available SSA data suggest that some individuals assigned SSNs for nonwork purposes may be misusing those SSNs to work illegally in the U.S. Despite SSA's stringent procedures for ensuring that an alien without work authorization is assigned an SSN only when the need for a number can be documented, wage items have been reported to SSA on SSNs assigned for nonwork purposes. SSN misuse can impact all levels of government in the form of illegal employment in the U.S and fraudulent entitlement to Federal and State benefits and services.

We have, with the assistance of the American Association of Motor Vehicle Administrators and the support of the Department of Transportation, combined efforts to assist States that currently require SSNs for driver licensing and motor vehicle registration purposes to develop alternative identifier systems to accommodate individuals not authorized to work in the U.S. We understand that most States have alternative identifier systems available, if not already in use.

Explanation of Change We Are Considering

We are considering amending § 422.104 of our regulations to define what we mean by a ''nonwork reason'' for assigning an SSN to an alien legally in the U.S. but not under authority of law permitting him or her to work in the U.S. According to the change we are considering, the only nonwork reason for assigning an SSN to such an alien would be if there is a Federal statute or regulation that requires the alien to have an SSN in order to receive a federally-funded benefit or service to which the alien has established entitlement. Under the change in our rules that we are considering, States and local entities would be able to continue to use an individual's SSN for purposes of providing benefits or services. However, SSA would not assign an SSN to an alien for a nonwork purpose solely to be able to receive a State or local benefit or service.

Request for Comments

Before proceeding with any proposed regulatory change, and to maximize public participation early in the rulemaking process, we invite the public to comment on this change in rules we are considering. While we are interested in receiving comments from any source on any aspect of the issues, we are particularly interested in public comments on both the costs and benefits of this particular change. And, for State and local governments in particular, we are interested in answers to the following questions.

- Does the State or local government have any statutory requirements for any benefits or services, for which aliens in the U.S. without work authorization are eligible, which require the applicant to have an SSN; such as for the issuance of driver's licenses, the registration of motor vehicles, or receipt of health benefits or emergency general assistance benefits (not federally-funded)?

- If so, would your State be willing to consider identifying these individuals by use of an alternative identifier? How soon could you implement an alternative identification system?

Dated: September 2, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 99–26500 Filed 10–8–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 11–99–011]

RIN 2115–AE47

Drawbridge Operation Regulation: Henry Ford Avenue Bridge, Cerritos Channel, Long Beach, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of Port of Los Angeles, the Coast Guard proposes to change the operating regulations for the Henry Ford Avenue Railroad Bridge across Cerritos Channel, mile 4.8, of Los Angeles/Long Beach Harbor, at Long Beach, California. The proposal would amend the existing operating regulations to require that the bridge open upon demand. The current regulation for the bridge, also known as the Badger Avenue Bridge, specifies that the bridge remain in the open to navigation position except for the passage of trains or maintenance.

DATES: Comments must be received on or before December 13, 1999.

ADDRESSES: Comments may be mailed or hand-delivered to: Commander (oan), Eleventh Coast Guard District, Bldg. 50–6, Coast Guard Island, Alameda, CA 94501–5100. Comments may also be faxed to: (510) 437–5836. Comments may be e-mailed to: *sworden@d11.uscg.mil.* Comments may be delivered to the above address between 6:30 a.m. and 4:00 p.m. Monday through Friday except Federal holidays.

The Commander, Eleventh Coast Guard District maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the address above.

FOR FURTHER INFORMATION CONTACT: Susan Worden, Bridge Administrator, at the address above. Her telephone number is (510) 437–3461.

SUPPLEMENTARY INFORMATION:

Requests for Comments

The Coast Guard encourages interested persons to participate in this proposed rulemaking by submitting written data, views, or arguments for or against the proposed change. Persons submitting comments should identify this rulemaking (CGD 11–99–011) and the specific section of this document to which each comment applies. Give the reason for each comment. Please submit all comments and attachments in an

unbound format, no larger than 8½ × 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self addressed postcard or envelope. All comments and other materials referenced in this notice will be available for inspection and copying at the Coast Guard address given above. Normal office hours are between 6:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. 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 is determined that the opportunity for oral presentations will aid in this rulemaking, the Coast Guard will hold a public hearing at time and place announced by a later notice in the **Federal Register**.

The proposed regulation may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on the NPRM.

Background and Purpose

The Ford Avenue Railroad Bridge is a vertical-lift, double track, railroad bridge constructed in 1997. It provides vertical clearance of 9 feet above Mean High Water (14 feet above Mean Lower Low Water) in the lowered position and 165 feet above MHW in the raised position. It provides horizontal clearance of 180 feet between fenders. The waterway is a connecting channel in the Los Angeles/Long Beach Harbor complex and is used by oceangoing cargo ships, tugs and barges, tour boats, commercial fishing vessels and recreational boats. This action is proposed because there has been an increase in train traffic and the additional raising and lowering of the bridge is increasing wear and tear on the machinery. This regulation change should: reduce wear and tear on the machinery and maintenance expense for the owner. It should also reduce maintenance closures and enhance the operational readiness of the bridge; thus should provide for the reasonable needs of navigation.

Discussion of Proposed Regulation

The Port of Los Angeles has requested that the Coast Guard make this change to reduce wear and tear on the bridge and better facilitate the increasing train traffic. The bridge provides the only rail access to Terminal Island.

Prior to construction of the new bridge, the average number of daily train crossings was 3. That average number is currently 17.3 and will increase substantially as new port facilities, now under construction on Terminal Island, are completed.

The adjacent Schuyler Heim vertical-lift bridge has a different operating regulation, because of the differences in clearance of the bridges in the closed position, and the differences in overland traffic. The Heim Bridge provides 37.5 feet vertical clearance above MHW in the closed position, vice 9 feet for the Ford Bridge. The Heim Bridge has morning and afternoon commute hour closures to facilitate the movement of vehicle commute traffic. The bridges have different opening signals because some vessels need only one of the bridges opened for safe passage.

Although the precise number of vessel transits requiring openings of the Ford Bridge is unknown, it is estimated that, initially, the bridge will open about as often for vessels as it now closes for trains. Train traffic is expected to increase appreciably in the future, thus the new operating method is expected to reduce wear and tear on the machinery. Vessel traffic is expected to remain relatively constant.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the Department of Transportation Regulatory Policies and Procedures (DOT) (44 FR 11040, February 26, 1979). The proposal changes the way the bridge will be operated, but provides for openings upon demand for vessels not able to pass under the closed bridge. The Coast Guard expects the impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

Assistance for Small Entities

In accordance with § 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rule making 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 Susan Worden, Coast Guard Bridge Section, Alameda office at the address listed in **ADDRESSES.**

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that under Commandant Instruction M16475.1C, Figure 2–1, paragraph 32(e), this proposal is categorically excluded from further environmental documentation, because it is a Bridge Administration Program action involving the promulgation of operating requirements or procedures for a drawbridge.

Unfunded Mandates

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

No state, local or tribal government entities will be affected by this rule, so this rule will not result in annual or

aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

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 rule and reached the following conclusions:

E.O 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This 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 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 Rule meets applicable standards in section 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 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 117

Bridges.

Proposed Regulation

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—[AMENDED]

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.147(b) is revised to read as follows:

§ 117.147 Cerritos Channel.

* * * * *

(b) The opening signal for the draw of the Henry Ford Avenue railroad bridge, mile 4.8 at Long Beach, is two short blasts followed by one prolonged blast. The acknowledging signal is two short blasts followed by one prolonged blast when the draw will open immediately and five short blasts when the draw will not open immediately. Channel 13 (156.65 MHz) or other assigned frequencies may be used.

Dated: September 22, 1999.

T.H. Collins,

Vice Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 99–26530 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE027–1027b; FRL–6453–6]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; 15 Percent Rate of Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to convert our conditional approval of Delaware's State Implementation Plan (SIP) revision to achieve a 15 percent reduction in volatile organic compound emissions (the 15% plan) in its portion of the Philadelphia-Wilmington-Trenton (namely Kent and New Castle Counties) ozone nonattainment area to a full approval. In the ''Rules and Regulations'' section of this **Federal Register**, we are converting our conditional approval of Delaware's 15% plan SIP revision to a full approval as a direct final rule because we view this as a noncontroversial amendment and because we anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments, we will not undertake further action on this proposed rule. If we receive adverse comments, we will withdraw the direct final rule, and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Anyone interested in providing comments on this action should do so at this time.

DATES: Comments must be received in writing by November 12, 1999.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, at the EPA Region III address above, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: September 23, 1999.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 99–26196 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–232–0176, FRL–6454–7]

Transportation Conformity Budget Adequacy Determination and Status of Maintenance Demonstration and Associated Budgets; San Francisco Bay Area Ozone Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is today proposing that the motor vehicle emissions budgets contained in the 1999 ozone attainment plan for the San Francisco Bay Area are adequate for transportation conformity purposes. EPA is also proposing that the Bay Area's existing maintenance demonstration and associated budgets are no longer applicable and should be replaced by the new budgets upon a final determination of adequacy. The attainment plan includes a budget of 175.2 tons per day (tpd) for VOC and 247.1 tpd for NO_X, both for the year 2000. If, after public comment, EPA finalizes this adequacy determination of the new budgets, and the determination that the maintenance demonstration is no longer applicable, the new budgets would apply to the attainment year of 2000 and beyond and become the sole 1-hour ozone standard VOC and NO_X budgets in the Bay Area for transportation conformity.

DATES: Comments on this proposed action must be received in writing by November 12, 1999. Comments should be addressed to the contact listed below.

ADDRESSES: A copy of the proposed rule is available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air,* and the EPA's Office of Mobile Sources' conformity website, *http://www.epa.gov/oms/traq* (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity''). A copy of the attainment plan can be obtained from the Bay Area Air Quality Management District's website, *http://sparc2.baaqmd.gov/sip/.* A copy of the plan is also included in the docket for this rulemaking and is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 744–1249 for assistance.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (415) 744–1249, Planning Office (AIR–2), Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. The Bay Area's 1999 Ozone Attainment Plan Contains New On-Road Motor Vehicle Emissions Budgets (''Attainment Budgets'') for Transportation Conformity Purposes

On August 13, 1999, the California Air Resources Board (CARB) submitted to EPA on behalf of the San Francisco Bay Area (Bay Area) a plan designed to bring the Bay Area into attainment with the federal 1-hour national ambient air quality standard (NAAQS) for ozone. This plan has an attainment year of 2000. The 2000 attainment year anticipates specific emissions levels for on-road motor vehicles: 175.2 tpd for VOC and 247.1 tpd for NO_X. Upon a final determination of adequacy, these emissions levels will become the transportation conformity motor vehicle emissions budgets for the Bay Area.

The role of transportation conformity, a requirement set out in section 176(c) of the Clean Air Act, is to ensure that motor vehicle emissions from transportation activities will not exceed the levels being relied on in the plan to achieve attainment. In other words, emissions from the implementation of transportation plans and programs must be ''consistent with estimates of emissions from motor vehicles and necessary emission reductions contained in the applicable implementation plan'' (CAA section 176(c)(2)(A)). Since the 2000 budgets in the ozone attainment plan are attainment budgets, they will apply to conformity determinations for the attainment year 2000 and for every year after 2000.

II. The New Attainment Budgets Are Adequate

The new attainment budgets are based on current motor vehicle emissions information and represent the best estimates of motor vehicle emissions levels needed for attainment of the federal 1-hour ozone standard. EPA believes the budgets meet the criteria for adequacy as set out in section 93.118(e)(4) (62 FR 43811, August 15, 1997) and should be deemed adequate for transportation conformity purposes.

There are six criteria for adequacy listed in section 93.118(e)(4). The first, a requirement that the budgets be endorsed by the governor or his designee and be subject to a State public hearing (section 93.118(e)(4)(I)), was satisfied by CARB's normal plan approval and submittal process. On July 22, 1999, the CARB board held a hearing to approve the Bay Area attainment plan. On August 13, 1999, CARB officially submitted the plan to EPA with a request from the Governor's designee that EPA approve the plan.

The second criterion requires that prior to plan submittal, there be ''consultation among federal, State, and local agencies * * *; full implementation plan documentation * * *''; and resolution of EPA's comments (section 93.118(e)(4)(ii)). The budgets, which were calculated and added to the plan after consultation among federal, State, and local agencies and in response to EPA comments, meet EPA's second criterion as well.

In compliance with the third, fourth, and fifth adequacy criteria, the motor vehicle emissions budgets are clearly identified and precisely quantified (section 93.118(e)(4)(iii)) in Section 4 of the submitted attainment plan; the budgets are consistent with the modeling results from the attainment assessment, which define the emissions levels needed for attainment (section 93.118(e)(4)(iv)); and the budgets are not only ''consistent with'' and ''related to the emissions inventory and the control measures in the submitted * * * plan,'' (section 93.118(e)(4)(v)) but are specifically derived from the motor vehicle emissions information projected for the year 2000 taking into account emissions reductions that will be achieved by the plan's control measures.

Finally, the sixth criterion relating to revisions of previously submitted plans (section 93.118(e)(4)(vi)) does not apply because the ozone attainment plan is an initial submission, not a revision to a previously submitted control strategy plan for the same Clean Air Act purpose and time frame. It is a new attainment plan triggered by EPA's redesignation of the Bay Area from maintenance to nonattainment on July 10, 1998 (63 FR 37258).

III. The 1995 Maintenance Budgets Are No Longer Applicable

On May 22, 1995, EPA redesignated the Bay Area to attainment and approved the Bay Area's maintenance plan, which was submitted as part of its redesignation request. 60 FR 27028. Such a plan is required by the redesignation provisions of sections 107(d)(3)(E)(iv) and 175A of the Act for maintenance areas—areas that are redesignated to attainment from nonattainment. The Bay Area is no longer a maintenance area. While its maintenance plan was designed to maintain compliance with the federal 1-hour ozone standard, the plan failed. During the first two years implementing the maintenance plan (1995–1996), the Bay Area experienced 43 exceedances and 17 violations of the federal standard. As a result, the Bay Area was redesignated back to nonattainment on July 10, 1998 (63 FR 37258). Because the Bay Area is now a nonattainment area subject to the attainment plan requirements of section 172, rather than the maintenance requirements of section 175A, we are finding through rulemaking that the maintenance demonstration is no longer relevant and is not an applicable requirement under section 110(l).[1] As part of the obsolete maintenance demonstration, the maintenance budgets are also no longer an applicable requirement of the Act. The maintenance demonstration and associated budgets were not eliminated when the Bay Area was redesignated back to nonattainment. The maintenance requirements can only be eliminated through rulemaking and if the new attainment budgets are deemed adequate. If this adequacy determination and determination that the maintenance budgets are no longer applicable are finalized, the VOC and NO_X transportation conformity budgets for the Bay Area contained in the new attainment plan submitted by CARB on August 13, 1999 will become the only

[1] Unlike the maintenance demonstration, the measures approved into the SIP as part of the maintenance plan remain in full force and effect and cannot be removed from the SIP without equivalent replacement because such removal would interfere with attainment pursuant to section 110(l).

applicable 1-hour ozone standard budgets for the Bay Area.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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 these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. 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 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 does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, 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 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 E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1990 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis (RFA).

EPA has determined that today's regulation will not have a significant impact on a substantial number of small entities. This regulation affects federal agencies and metropolitan planning organizations, which by definition are designated only for metropolitan areas with a population of at least 50,000. These organizations do not constitute small entities.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

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 annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

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

Dated: September 27, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 99–26556 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6449–7]

Washington: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Washington has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We propose to

grant final authorization to Washington. In the ''Rules and Regulations'' section of this **Federal Register**, we are authorizing the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective, and the Agency will not take further action on this proposal. If we get comments that oppose this action, EPA will withdraw the immediate final rule and it will not take effect. EPA will then address public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of today's authorization rule. However, the authorization of the program changes that are not opposed by any comments will become effective on the date specified in the immediate final rule. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

DATES: Send your written comments by November 12, 1999.

ADDRESSES: Send written comments to Nina Kocourek U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM–122, Seattle WA, 98101. Phone: (206) 553–6502. You can examine copies of the materials submitted by Washington during normal business hours at the following locations: EPA Region 10 Library, 1200 Sixth Avenue, Seattle WA, 98101, (206) 553–1259; and the Washington Department of Ecology, 300 Desmond Drive, Lacey, WA 98503, contact Patricia Hervieux at (360) 407–6756.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM–122, Seattle, WA 98101. Phone: (206) 553–6502.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: September 24, 1999.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 99–25560 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–1881, MM Docket No. 99–284, RM–9697]

Radio Broadcasting Services; Galveston and Missouri City, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by KQQK License, Inc., proposing the reallotment of Channel 293C from Galveston, Texas, to Missouri City, Texas, as that community's first local service and modification of its license for Station KQQK to specify Missouri City as its community of license. The coordinates for Channel 293C at Missouri City are 29–16–03 and 95–10–09. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 293C at Missouri City.

DATES: Comments must be filed on or before November 8, 1999, and reply comments on or before November 23, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lawrence Roberts, May L. Plantamura, Davis Wright Tremaine LLP, 1155 Connecticut Ave., NW, suite 700, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–284, adopted September 8, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC 20554. 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.

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* contact.

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. 99–26423 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1882, MM Docket No. 99–285, RM–9717]

Radio Broadcasting Services; Keeseville, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by John Anthony Bulmer seeking the allotment of Channel 250A to Keeseville, NY, as the community's first local aural service. Channel 250A can be allotted to Keeseville in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, without the imposition of a site restriction, at coordinates 44–30–18 North Latitude and 73–28–50 West Longitude. Keeseville is located within 320 kilometers (200 miles) of the U.S.-Canadian border and will result in a short-spacing to Station CHOM–FM, Channel 249C1, Montreal, Quebec. Therefore, concurrence in the allotment by the Canadian Government, as a specially negotiated short-spaced allotment, must be obtained.

DATES: Comments must be filed on or before November 8, 1999, and reply comments on or before November 17, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John Anthony Bulmer, P.O. Box 2040, Ashtabula, OH 44005–2040 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–285, adopted September 8, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

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. 99–26422 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 64, No. 196
Tuesday, October 12, 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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection, Comment Request—Food Stamp Program: Operating Guidelines, Forms, and Waivers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) is publishing for public comment a summary of new information collection being required by proposed regulations. The proposed collection is an addition to collection currently approved under OMB No. 0584–0083.

DATES: Comments on this notice must be received by December 13, 1999, to be assured of consideration.

ADDRESSES: Send comments and requests for copies of this information collection to Jeffrey N. Cohen, Chief, Electronic Benefits Transfer Branch, Benefit Redemption Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. Comments may also be datafaxed to Mr. Cohen at (703) 605–0232 or they may be transmitted by e-mail to jeff.cohen@fns.usda.gov.

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 has a practical use; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included for the Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Jeffrey N. Cohen, telephone number (703) 305–2517.

SUPPLEMENTARY INFORMATION:

Title: Operating Guidelines, Forms and Waivers.

OMB Number: 0584–0083.

Expiration Date: October 2002.

Type of Request: Addition to a currently approved collection.

Abstract: On February 23, 1999, the Food and Nutrition Service (FNS) published a proposed rule at 64 FR 8733 without including separate notice of a new information collection burden in OMB No. 0584–0083. This notice corrects that omission and explains the new information collection burden for Electronic Benefits Transfer (EBT) system reporting.

EBT systems currently deliver about 67% of all Food Stamp Program (FSP) benefits. Forty-one States and the District of Columbia have EBT systems and thirty-four of those are implemented throughout the entire State or the District. In 1990, Congress allowed EBT as an option to States for the delivery of FSP benefits. In 1996 Congress mandated that all State agencies must deliver FSP benefits using EBT systems by October 1, 2002.

For the FSP, EBT systems move money from Federal accounts held in the name of each State to accounts at banks and other financial institutions held by or for food retailers. Retailers must first be authorized by FNS to accept food stamp benefits. States determine the eligibility and the monthly FSP allotments for recipients. They give each household a plastic EBT card and a Personal Identification Number (PIN). State EBT systems operate like a debit card system with an immediate decrement to the household account when the card and PIN are used for a food purchase. The amount of the purchase is credited to the food retailer account and funds are settled each bank working day through the Automated Clearinghouse (ACH) process.

The FSP EBT regulations are being revised to require the SAS No. 70 examinations and this will add new information collection burdens for States and auditors conducting SAS No. 70 examinations of EBT service providers. The SAS No. 70 examination results in a report on the policies and procedures placed in operation by the service provider and tests of their operating effectiveness. This kind of report is commonly referred to by auditors as a SAS No. 70 type 2 report. The new burden on State agencies is recordkeeping. The new burden on auditors is the examination and report.

Respondents: State agencies with Electronic Benefits Transfer (EBT) systems delivering Food Stamp Program benefits and auditors of EBT transaction processing service providers.

Number of respondents: 53 State agency respondents and 10 auditors of EBT transaction processing service providers.

Estimated number of responses per respondent: 1 response per State agency to retain and provide copies of SAS No. 70 examination reports annually. 10 auditors performing 2 SAS No. 70 examinations annually.

Estimate of the burden:

10 auditors at an estimated 2,704 hours or 27,040 hours annually.

53 State agencies at an estimated 0.25 hours or 13.25 hours annually.

Estimated total annual burden on respondents: 27,053.25 hours annually. [Operating Guidlines, Forms, and Waivers]

Dated: October 5, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–26496 Filed 10–8–99; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–044N]

National Advisory Committee on Meat and Poultry Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The National Advisory Committee on Meat and Poultry Inspection will hold a public meeting

on November 3–4, 1999, to review and discuss five issues: (1) Extending USDA's Meat and Poultry Inspection Program to Additional Species (Inspection Methods Standing Sub-Committee), (2) Reinforcing the Food Code by Adopting Key Food Safety Provisions as Federal Performance Standards, (3) Regulatory Reform (Inter-Governmental Roles Standing Sub-Committee), (4) HACCP Systems In-depth Verification Review, and (5) *E. coli* 0157 Action Plan (Resource Allocation Standing Sub-Committee). Three standing subcommittees of the full committee will also meet on November 3, 1999, to continue working on issues discussed during the full committee session. All interested parties are welcome to attend the meeting and to submit written comments and suggestions concerning issues the Committee will review and discuss. A schedule of when issues are scheduled for discussion is available on the FSIS Homepage at *http://www.fsis.usda.gov*.

DATES: The full Committee will hold a public meeting on Wednesday and Thursday, November 3–4, 1999, from 8:30 a.m. to 5:30 p.m. Subcommittees will hold public meetings on November 3, 1999, from 7:00 p.m. to 9:00 p.m.

ADDRESSES: The full Committee meeting will take place at the United States Department of Agriculture, Whitten Building, 14th and Independence Avenue, S.W., Washington, DC in the Jefferson Room. The subcommittees will meet in the Adams, Roosevelt, and Washington Rooms of the Quality Hotel & Suites, Courthouse Plaza, 1200 North Courthouse Road, Arlington, Virginia 22201 (703) 524–4000. Send written comments to the Food Safety and Inspection Service (FSIS) Docket Clerk: Docket 99–044N, Room 102 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250. Comments may also be sent by facsimile (202) 205–0381. The comments and the official transcript of the meeting, when it becomes available, will be kept in the Docket Clerk's office at the address provided above.

FOR FURTHER INFORMATION CONTACT: Contact Michael N. Micchelli at (202) 720–6269, FAX (202) 720–2345, or E-mail michael.micchelli@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 1997, the Secretary of Agriculture renewed the charter for the Advisory Committee on Meat and Poultry Inspection. The Committee provides advice and recommendations to the Secretary of Agriculture pertaining to Federal and State meat and poultry inspection programs pursuant to sections 7(c), 24, 205, 301(a)(3), and 301(c) of the Federal Meat Inspection Act and sections 5(a)(3), 5(c), 8(b), and 11(e) of the Poultry Products Inspection Act. The Administrator of FSIS is the chairperson of the Committee. Membership of the Committee is drawn from representatives of consumer groups; producers, processors, and marketers from the meat and poultry industry; and State government officials. The current members of the National Advisory Committee on Meat and Poultry Inspection are: Terry Burkhardt, Wisconsin Bureau of Meat Safety and Inspection; Dr. James Denton, University of Arkansas; Caroline Smith-DeWaal, Center for Science in the Public Interest; Nancy Donley, Safe Tables Our Priority; Carol Tucker Foreman, Food Policy Institute, Consumer Federation of America; Dr. Cheryl Hall, Zacky Farms, Inc.; Kathleen Hanigan, Farmland Foods; Dr. Lee C. Jan, Texas Department of Health; Alice Johnson, National Turkey Federation; Dr. Collette Schultz Kaster, Premium Standard Farms; Dr. Daniel E. LaFontaine, South Carolina Meat-Poultry Inspection Department; Michael Mamminga, Iowa Department of Agriculture; Dr. Dale Morse, New York Office of Public Health; Rosemary Mucklow, National Meat Association; and Gary Weber, National Cattlemen's Beef Association. On September 20, 1999, the Secretary of Agriculture appointed two new members to the Committee: Donna Richardson, Howard University Cancer Center and Magdi Abadir, Cuisine Solutions.

The Committee has three standing subcommittees to deliberate on specific issues and make recommendations to the whole Committee and to the Secretary of Agriculture.

Members of the public will be required to register at the meeting. There is no pre-registration required. The meeting agenda will be available on the FSIS Homepage at *http://www.fsis.usda.gov*. Persons requiring a sign language interpreter or other special accommodations should notify Michael N. Micchelli, by October 18, 1999.

Additional Public Notification

Pursuant to Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' dated September 22, 1993, FSIS has considered the potential civil rights impact of this public meeting on minorities, women, and persons with disabilities. FSIS anticipates that this public meeting will not have a negative or disportionate impact on minorities, women, or persons with disabilities. However, public meetings generally are designed to provide information and receive public comments on substantive issues which may lead to new or revised agency regulations or instructions. Public involvement in all segments of rulemaking and policy development are important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are made aware of this public meeting and are informed about the mechanism for providing their comments, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update.

FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** Notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information with a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

Done at Washington, DC on: October 5, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–26559 Filed 10–8–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

BHROWS (Big Game Habitat Restoration on a Watershed Scale) Project; Clearwater National Forest, Clearwater County, ID

AGENCY: Forest Service, USDA. As lead agency for this project, the Forest Service, with assistance from the Idaho State Department of Fish and Game, will cooperate with other Federal agencies, as well as County, State, and tribal governments who display an interest in the project, and who require assessment and concurrence.

ACTION: Notice of intent to prepare an environmental impact statement (EIS)

for the improvement of the elk habitat situation within North Fork Clearwater River subbasin.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS), titled BHROWS: Middle-Black, to disclose the environmental effects of vegetative management proposals aimed at improving the elk habitat situation within the Middle North Fork and Upper North Fork (Black Canyon) watersheds of the North Fork Clearwater River subbasin.

Both watersheds, totaling approximately 156,000 acres, are entirely on National Forest lands within the North Fork Ranger District of the Clearwater National Forest, Townships 38–41 North, Ranges 7–11 East, Boise Meridian, Clearwater County, Idaho.

The BHROWS project is a part of the Clearwater Basin Elk Habitat Initiative, a coalition of many diverse groups sharing a common interest in the future and management of elk and elk habitat in the Clearwater River basin.

While elk concerns provide the impetus for the BHROWS project, elk are only part of a much larger ecosystem picture. Thus, this analysis is based on the philosophy of ecosystem management, featuring observation and replication of natural disturbance processes, such as wildfire. In so doing, this analysis will look beyond elk at the major processes that shape the North Fork ecosystem.

The proposal and subsequent effects analysis will meet the intent of the Clearwater Forest Plan, using an ecosystem management approach for the analysis area. Management Areas within the analysis area include: A3, emphasizing dispersed recreation; B2, emphasizing proposed wilderness; C3, emphasizing big-game winter range; C4, emphasizing big-game winter range and timber production; C8S, emphasizing big-game summer range and timber production; E1, emphasizing growth and yield of timber; M1, emphasizing research natural areas; M2, emphasizing riparian management; and US, emphasizing lands unsuitable for timber production.

Proposed Action

An assessment, titled BHROWS Assessment 8/16/99, was completed for the entire North Fork Clearwater River subbasin (840,000 acres). The results indicate that the following current vegetative species and age class distributions would not have occurred under natural conditions: (1) Western white pine, once the dominant cover type, has been replaced by dense, young stands of Douglas-fir and grand fir which are shorter lived and less resistant to many insects and diseases; (2) lodgepole pine cover types have nearly doubled and are approaching the end of their life cycle, putting them at risk from mountain pine beetle attack and large-scale, stand replacing fires; and (3) early successional stages, which provide forage habitat for big game, now occupy less than one-third of their historical range. These shifts in vegetative conditions have resulted in the loss of elk habitat and have contributed in part towards the decline of elk populations within the analysis area.

The proposed action is designed to restore vegetative patterns across the analysis area to a more natural condition than what currently exists, and by so doing, restore populations of native wildlife species, such as elk, to near-normal distribution and abundance. It includes treating up to 28,700 acres of uniform stands of trees (primarily mid-successional stages), located mostly on the breaklands and colluvial midslopes. This portion of the landscape would be changed from a uniform cover of trees to a more natural mosaic of tree cover and openings. Also treated would be approximately 1,850 acres of lodgepole pine stands in the higher elevations, with most of these stands being converted to early successional stages. Portions of 4,600 acres of recently acquired lands in the northeast corner of the analysis area would be planted with blister rust resistant white pine and larch. Some of the area proposed for planting is currently covered with thick brush and/or logging slash and would have to be cleared prior to planting. Also within the analysis area are approximately 10,000 acres of brushfields, some of which are too old or too tall to provide needed forage for elk and other wildlife. This project will consider rejuvenating selected brushfields, primarily those that are no longer providing suitable forage for elk, and are on deep soils and near a tree seed source.

Methods of treatment for the above activities would mimic natural disturbance patterns and patch sizes and would probably consist of prescribed fire, slashing (hand or mechanical), timber harvest (primarily helicopter yarding), or combinations thereof. Most of the areas treated would be planted with seral species of trees (primarily white pine and larch) and/or shrubs (redstem ceanothus, willow, and maple). Other areas treated would rely on natural tree regeneration and the resprouting of existing shrub species. At this time, road activities needed for treatment access are expected to be minimal, consisting of the reconstruction of existing roads and the possible construction of temporary roads for skyline yarder access or helicopter landings.

For the purpose of protecting the natural condition and biodiversity of the area, an integrated pest management approach to noxious weed control would be proposed on selected sites along area roads, trails, and disturbed sites. This approach would consider the use of physical/mechanical, chemical, and/or biological management techniques, depending on specific sites and weed species. Since dormant seeds in existing weed populations can germinate several years after treatment, follow-up treatments would be proposed, as would the treatment of new infestations, provided such treatment fits within the scope of this analysis.

Because some streams in the area are not meeting desired instream conditions for cobble embeddedness, some of the erosion sources in the watershed would be corrected by obliterating up to 150 miles of roads in the Coyote/Game/Lick Creek areas. Depending on future access needs, some of these roads may be proposed for long-term intermittent status, rather than full obliteration. Such roads would be closed to motorized traffic and placed in a condition to assure they do not require active maintenance.

Preliminary issues identified by the interdisciplinary team include the effects of the proposed action on roadless areas, old growth habitat, water quality, fish habitat, air quality, threatened/endangered/proposed/sensitive species, scenic resources, recreation, forest health, tribal treaty rights, and heritage resources. Mitigation measures, project design features, and alternatives to the proposed action will be analyzed to address these issues and others that may surface during public scoping.

Public Involvement

Public participation will be an important part of this analysis. Issues which emerge from public scoping will be used to develop additional alternatives to this proposal. Methods being used to solicit public comment include news releases, weekly radio interviews, newsletters, and monthly meetings with the Clearwater Elk Recovery Team, a self-organized group of private citizens. A mailing list of interested public will be maintained, and a web page for this project and the Clearwater Basin Elk Habitat Initiative can be accessed by logging on to:

www.fs.fed.us/rl/clearwater/cei/ceihome.htm.

Comments concerning the scope of the analysis should be received in writing within 30 days from publication of this notice. Send written comments to Douglas Gober, District Ranger, 12370 B Highway 12, Orofino, ID 83544.

DATE: The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in November 1999. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability of the draft EIS in the **Federal Register**. The final EIS is scheduled to be completed by March 2000.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements 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 environmental impact statement stage but that are not raised until after completion of the final environmental impact statement 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 environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217.

Deciding Official

The responsible official for decisions regarding this analysis is James Caswell, Clearwater National Forest Supervisor. His address is 12730 Highway 12, Orofino, ID 83544. He will decide whether or not to select an action or mix of actions to improve the ecological condition of the analysis area and best meet the habitat needs of elk and other wildlife species.

Point of Contact: Further information about this project can be obtained by contacting George Harbaugh, Interdisciplinary Team Leader, at the above address or by calling (208) 476–4541.

Dated: September 28, 1999.

Deanna M. Riebe,

Acting Forest Supervisor.

[FR Doc. 99–26464 Filed 10–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Supplement to the Final Environmental Impact Statement for the Mt. Ashland Ski Area, Rogue River National Forest, Jackson County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Cancellation of a supplement to a final environmental impact statement.

SUMMARY: On January 19, 1999, a Notice of Intent (NOI) to prepare a supplemental environmental impact statement for the Mt. Ashland Ski Area on the Ashland Ranger District of the Rogue River National Forest was published in the **Federal Register** (64 FR 2873). This notice is being withdrawn because a NOI that specifically reflects the expansion proposal for Mt. Ashland Ski Area will be published. The Forest Service NOI to prepare a supplemental is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Linda Duffy or Steve Johnson, Ashland Ranger District, Rogue River National Forest, 645 Washington Street, Ashland, Oregon 97520, telephone 541–858–2402; email address is sjohnson/r6pnw,rogueriver@fs.fed.us.

Dated: September 30, 1999.

Robert W. Shull,

Acting Forest Supervisor.

[FR Doc. 99–26480 Filed 10–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Mt. Ashland Ski Area Expansion, Rogue River National Forest, Jackson County, Oregon

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service will prepare an environmental impact statement (EIS) to document the analysis and disclose the environmental impacts of the proposed action to expand the Mt. Ashland Ski Area (MASA). The project area is located approximately 7 miles south of Ashland, Oregon, within the Siskiyou Mountains in Southern Oregon. The proposed expansion would include construction of a new chairlift and associated ski runs; a surface lift providing novice skiers access to proposed runs; additional parking areas; maintenance access roads; and necessary supporting infrastructure—sewer, water, and power lines. All proposed expansion projects are within the existing Special Use Permit area boundary. Proposed action would be implemented by MAA after Forest Service authorization is granted. Full implementation is expected to take 2–3 years. The agency will give notice of the full environmental analysis and decision making process on the proposed expansion so interested and affected members of the public may participate and contribute in the final decision.

DATES: Additional comments concerning the scope of this analysis should be received by October 29, 1999.

ADDRESSES: Submit additional written comments to Linda Duffy, District Ranger, Ashland Ranger District, Rogue River National Forest, 645 Washington Street, Ashland, Oregon, 97520.

FOR FURTHER INFORMATION CONTACT: Linda Duffy or Steve Johnson, Ashland Ranger District, Rogue River National Forest, 645 Washington Street, Ashland, Oregon, 97520, Telephone (541) 482–3333; FAX (541) 858–2402; email address is sjohnson/r6pnw__rogueriver@fs.fed.us.

SUPPLEMENTARY INFORMATION: This site specific EIS will focus on a project proposal for expansion within the existing Master Plan. The environmental analysis will consider and include new information or changed circumstances since the programmatic decision on the ''Master Plan'' was made in 1991, including an action partially contained within an area previously inventoried as roadless. A Forest Plan Amendment will be needed to adjust the management allocation boundary from the 1990 Rogue River National Forest Land and Resource Management Plan.

The MAA expansion proposed action includes: construction of a new top drive, quad chairlift and associated ski runs within the western portion of the Special Use Permit area; approximately 8 acres of surface lift corridors and staging areas, providing novice skiers access to the proposed runs; a new skier services building; 2 additional work road segments; additional power, water lines and storage tanks, sewer lines; and increase parking lot by 200 spaces. The legal location description for all actions is T. 40 S., R. 1 E., in sections 15, 16, 17, 20, 21, and 22, W.M., Jackson County, Oregon.

Currently the variety of ski runs offered at MASA does not reflect the predominate demand of skiers and snowboarders, and projected future trends. Intermediate and low intermediate skiing terrain is currently inadequate, particularly to skiing groups and families with varying ski abilities and skills. The primary purpose and need associated with this proposed expansion is to make available additional novice and intermediate skiing terrain. MASA's capacity to host special programs and competitions is currently limited by available terrain and the concurrent need to accommodate the general skiing public. In addition, the current skier service facilities are not in line with the number of users and in some cases are inadequate, for example, sanitation, food service, and vehicle parking.

Preliminary issues include: water quality within a domestic supply watershed; protection of wetland habitats and rare plant and animal species; aesthetics and social considerations; and the economic feasibility associated with the operation and expansion of a commercial ski area. Alternatives being considered include opportunities to avoid or reduce impacts to wetland areas and alternative locations for ski runs, parking and other proposed ski area facilities.

Comments received on the draft EIS will be considered in the preparation of the final EIS. The draft EIS is now expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in November 1999. The comment period on the draft EIS will be 45 days from the date EPA publishes the Notice of Availability in the **Federal Register.** At the end of the comment period on the draft EIS, comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by March 2000.

Comments received in response to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs 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, 533 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until completion of the final EIS, may be waived or dismissed by the courts. *City 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 important that those interested in this proposed action participate by the close of the 45-day comment period so 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 Forest Service is the Lead Agency for this EIS. The Forest Supervisor is the Responsible Official. The Responsible Official will consider the comments, responses to the comments, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies. The Responsible Official will document the Mt. Ashland Ski Area Expansion decision and the rationale for the decision in a ROD. The Forest Service decision will be subject to Forest Service Appeal Regulations (36 CFR Part 215).

Dated: September 30, 1999.

Robert W. Shull,

Acting Forest Supervisor.

[FR Doc. 99–26481 Filed 10–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on October 27 and 28, 1999, at the Brook Trails Fire Department Meeting Room in Willits, California. The meeting will be held from 9:00 to 5:00 p.m. on October 27, and from 8:30 a.m. to noon on October 28. The Brook Trails Fire Department is located at 24860 Birch St. in Willits. Agenda items to be covered include: (1) Update on Survey and Manage requirements of the Northwest Forest Plan (to include status of the lawsuit, preliminary injunctions and the Supplemental Environmental Impact Analysis); (2) Regional Ecosystem Office (REO) Update (to

include Interagency Advisory Committee/PAC Summit); (3) Work on the Ground Subcommittee Report (to include scheduling of CY 2000 field Trips, and follow up to previous presentations on forest health, land allocations, and the 15% Retention Standards and Guidelines); (4) Schedule CY 2000 PAC meetings (to include discussion on the proposal to work jointly with the Northwest Sacramento PAC on the Fork Fire area rehabilitation as a focus of activities); (5) Presentation by CalTrans concerning herbicide use to manage vegetation on State roadways within the California Coast Province; (6) Aquatic Conservation Subcommittee Report (to include recommended letter on Lake Pillsbury block water, follow up on the previous meeting's fisheries panel, and recommendation to provide federal staff persons to advice the State on its watershed analyses); and (7) Open public comment. All California Coast Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Daniel Chisholm, USDA, Forest Supervisor, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934–3316 or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934–3316.

Dated: October 4, 1999.

Daniel K. Chisholm,

Forest Supervisor.

[FR Doc. 99–26416 Filed 10–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of proposed changes to the Field Office Technical Guide (Hawaii) conservation practice standards.

SUMMARY: It is the intention of NRCS Hawaii to issue a series of revised practice standards for use in the State of Hawaii. These practice standards are revised from the current National Handbook of Conservation Practices. These revised standards include Conservation Cover (Code 327), Forest Site Preparation (Code 490), Wildlife Wetland Habitat Management (Code 644), Wildlife Upland Habitat Management (Code 645), Grazing Land Mechanical Treatment (Code 548), Nutrient Management (Code 590), Waste Utilization (Code 633), Mulching (Code 484), Fence (Code 382), Fence, Non-electric (Code 382A), Fence, Electric (Code 382B). These practice standards will be incorporated into Section IV of the Field Office Technical Guide (FOTG). Some of these practices may be used in conservation systems that treat highly erodible land.

EFFECTIVE DATES: Comments must be received on or before December 13, 1999. This series of new or revised conservation practice standards will be adopted after the close of the 60-day period.

FOR FURTHER INFORMATION CONTACT: Inquire, or send comments in writing to Kenneth Kaneshiro, State Conservationist, Natural Resources Conservation Service (NRCS), P.O. Box 50004, Honolulu, Hawaii 96850.

Comments can be also e-mailed to comments@hi.nrcs.usda.gov.

Copies of these standards are available from NRCS, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, room 4–118, Honolulu, Hawaii, or by writing to NRCS, P.O. Box 50004, Honolulu, Hawaii, 96850. Copies are also available electronically on the NRCS website at http://www.hi.nrcs.gov/fotg/html. Practice code numbers are used as file names on the website. These standards are available as MS Word 6.0 files.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 60 days the NRCS will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS regarding disposition of those comments and a final determination of change will be made.

Kenneth M. Kaneshiro,

State Conservationist, Natural Resources Conservation Service, Honolulu, Hawaii.

[FR Doc. 99–26470 Filed 10–8–99; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Census Bureau

Census 2000 Content Reinterview Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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 or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 13, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Joy Sharp, Census Bureau, Room 3484/3, Washington, DC 20233; (301) 457–3869.

SUPPLEMENTARY INFORMATION:

I. Abstract

As part of its plan to evaluate the quality of data collected in the Census 2000, the Census Bureau plans to conduct the Census 2000 Content Reinterview Survey (CRS). The evaluation of the quality of data collected in the Census 2000 is important for both data users and census planners. Data users must have knowledge of the accuracy and reliability of the data in order to make informed decisions about how errors in the data may affect the conclusions they draw from analyzing the data. Census planners require similar information to develop and test methods to improve the overall quality of the data produced in future censuses.

The methods used to collect and process census data are complex and subject to error. One particular type of error, response error, arises from the erroneous or unreliable reporting of characteristics. Response error in the decennial census has traditionally been measured through content reinterview surveys. The Census Bureau first began conducting a census CRS after the 1950

census and continued to conduct one for each of the following censuses.

The purpose of the CRS is twofold. First, it will be used to estimate response variance for most items on the census long form. To measure response variance, the reinterview will re-ask the same set of questions applying, to the extent possible, similar survey procedures and replicating a similar set of conditions. Secondly, the reinterview will be used to make historical comparisons to previous studies of census content error.

The CRS will attempt to evaluate errors introduced in the actual collection and capture of the data. Contributors to response variance include, but are not limited to, the following: questionnaire design, interview administration mode, question wording, inadequate instruction, interviewer effects, and deliberate falsification by the respondent or interviewer. In addition, sources of procedural error (*e.g.*, scanning and data capture errors) will also be reflected in the response variance.

II. Method of Collection

Approximately 25,000 housing units that are designated to receive the census long form will be selected for reinterview purposes. Approximately one month following census enumeration, Census Bureau field representatives (FRs) will recontact selected households and reinterview them by asking the identical items as posed by the decennial long form. Only minor modifications will be made to the census long form to account for needed reinterview instructions, reference period changes, etc. The reinterview questionnaire will also collect data on only one randomly selected person in the household to reduce the burden placed on the household.

The mode of administration for the reinterview survey will be telephone and personal visit and interviews will be conducted by each of the twelve census regional offices. FRs will first attempt to reach households by telephone; however, if a telephone number is not available or there are other difficulties in reaching the household by telephone, FRs will make a personal visit to the sampled household to collect the requested information. The FR will administer the interview using a paper questionnaire, similar to the census long form. To the extent possible, all other interviewing procedures applied during the reinterview will replicate those used during census enumeration.

Following the conclusion of data collection, reinterview data will then be matched to a census data file. Data from these two sources will then be analyzed to evaluate how responses provided during census enumeration compare to those collected in the reinterview process.

An interviewer quality control program will check households classified as ineligible for the CRS to detect and deter falsification. Units with unacceptable within-household match rates will be revisited to determine whether the interviewer conducted the CRS interview.

III. Data

OMB Number: Not Available.

Form Number: Not Available (The questionnaire is nearly identical to the Census 2000 long form but will have a unique form number).

Type of Review: Regular submission.

Affected Public: Households.

Estimated Number of Respondents: 25,000.

Estimated Time Per Response: 20 minutes.

Estimated Total Annual Burden Hours: 8,333 hours.

Estimated Total Annual Cost: There is no cost to the respondent other than the time to complete the information request.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have a practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 6, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–26498 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Quarterly Survey of the Finances of Public-Employee Retirement Systems

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 13, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Russell Price, Acting Chief, Finance Branch, Governments Division, U.S. Bureau of the Census, Washington, DC 20233–6800 (301–457–1488).

SUPPLEMENTARY INFORMATION:

I. Abstract

This quarterly survey was initiated by the Census Bureau in 1968 at the request of both the Council of Economic Advisors and the Federal Reserve Board. It gathers data on the assets of the 102 largest state and local government public-employee retirement systems. These systems hold over $1.5 trillion in assets, which represent approximately 80 percent of all state and local government public employee retirement system assets.

These important data are used by the Federal Reserve Board to track the public sector portion of the flow of funds accounts. The Bureau of Economic Analysis uses the data on corporate stock holdings to estimate dividends received by State and local government public employee retirement systems. These estimates, in turn, are used as a component in developing the national income and product accounts.

In our planned submission for review of this collection, we will request an extension of the expiration date and will

make minor formatting changes to the data collection instrument.

II. Method of Collection

This is a mail canvass survey. Responses are screened manually and then entered on a microcomputer. No statistical methods are used to calculate the data. In those rare instances when we are not able to obtain a response, estimates are made for nonrespondents by using:

A. Historical data for the same system.

B. Latest available annual data.

C. Estimates received by telephone calls to respondents.

III. Data

OMB Number: 0607–0143.

Form Number: F–10.

Type of Review: Regular.

Affected Public: State and local governments.

Estimated Number of Respondents: 102.

Estimated Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 408 hours.

Estimated Total Annual Cost: The estimated cost to the respondents is $7,156.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 6, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–26499 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1055]

Grant of Authority for Subzone Status: E.I. Dupont de Nemours and Company, Inc. (Crop Protection Products); El Paso, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Economic Development Council for the Peoria Area, grantee of Foreign-Trade Zone 114, has made application to the Board for authority to establish special-purpose subzone status at the crop protection products manufacturing facility of E.I. DuPont de Nemours and Company, Inc., located in El Paso, Illinois (FTZ Docket 20–99, filed 5/7/99);

Whereas, notice inviting public comment has been given in the **Federal Register** (64 FR 26933, 5/18/99); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application would be in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the crop protection products manufacturing facility of E.I. DuPont de Nemours and Company, Inc., located in El Paso, Illinois, (Subzone 114D), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 23rd day of September 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–26582 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1060]

Grant of Authority for Subzone Status: Northrup Grumman Corporation—Electronic Sensors and Systems Division (Electronic Sensoring, Processing, and Communications Technologies; Baltimore, MD, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for '' * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Maryland Department of Transportation, grantee of Foreign-Trade Zone 73, has made application to the Board for authority to establish special-purpose subzone status at the manufacturing facilities (electronic sensoring, processing, and communications technologies) of Northrop Grumman Corporation—Electronic Sensors and Systems Division, located near Baltimore, Maryland (FTZ Docket 54–98, filed 12/1/98);

Whereas, notice inviting public comment has been given in the **Federal Register** (63 FR 67853, 12/9/98); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and

that approval of the application would be in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the electronic sensoring, processing, and communications technologies manufacturing facilities of Northrop Grumman Corporation—Electronic Sensors and Systems Division, located near Baltimore, Maryland (Subzone 73B), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 23rd day of September 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–26584 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–U

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1056]

Grant of Authority for Subzone Status: E.I. Dupont de Nemours and Company, Inc. (Crop Protection Products); Manatí'', PR

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for '' * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Puerto Rico Industrial Development Company, grantee of Foreign-Trade Zone 7, has made application to the Board for authority to establish special-purpose subzone status at the crop protection products manufacturing facility of E.I. DuPont de Nemours and Company, Inc. (DuPont Agricultural Caribe Industries, Ltd.), located in Manatí, Puerto Rico (FTZ Docket 21–99, filed 5/7/99);

Whereas, notice inviting public comment has been given in the **Federal Register** (64 FR 26934, 5/18/99); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application would be in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the crop protection products manufacturing facility of E.I. DuPont de Nemours and Company, Inc., located in Manatí, Puerto Rico, (Subzone 7E), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 23rd day of September 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–26583 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Extension of Time Limit for Final Results of Five-Year Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for final results of five-year (''sunset'') reviews.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the final results of 16 expedited sunset reviews initiated on June 1, 1999 (64 FR 29261) covering various antidumping and countervailing duty orders. Based on adequate responses from domestic interested parties and inadequate responses from respondent interested parties, the Department is conducting expedited sunset reviews to determine whether revocation of the antidumping and countervailing duty orders would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy. As a result of these extensions, the Department intends to issue its final results not later than December 28, 1999.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho, Kathryn B. McCormick or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1698, or (202) 482–1560 respectively.

Extension of Final Results

In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended (''the Act''), the Department may treat a sunset review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). The Department has determined that the sunset reviews of the following antidumping and countervailing duty orders are extraordinarily complicated:

A–428–802 Industrial Belts Except Synchronous & V Belts from Germany

A–475–802 Synchronous and V-Belts from Italy

A–588–807 Industrial Belts from Japan

A–559–802 V-Belts from Singapore

A–351–804 Industrial Nitrocellulose from Brazil

A–427–009 Industrial Nitrocellulose from France

A–428–803 Industrial Nitrocellulose from Germany

A–588–812 Industrial Nitrocellulose from Japan

A–580–805 Industrial Nitrocellulose from Korea

A–570–802 Industrial Nitrocellulose from the People's Republic of China

A–412–803 Industrial Nitrocellulose from the United Kingdom

A–479–801 Industrial Nitrocellulose from Yugoslavia

A–122–804 Steel Rail from Canada

C–122–805 Steel Rail from Canada

A–588–810 Mechanical Transfer Presses from Japan

Therefore, the Department is extending the time limit for completion of the final results of these reviews until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.

Dated: September 29, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–26585 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–007]

Carbon Steel Wire Rod From Argentina; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the preliminary results of the antidumping duty administrative review of Carbon Steel Wire Rod From Argentina. This review covers the period November 1, 1997 through October 31, 1998.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0405 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: Owing to the complexity of model match issues in this case, it is not practicable to complete this review within the original time limit. See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated April 20, 1999. Therefore, the Department is extending the time limit for completion of the preliminary results until November 30, 1999, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994.

Dated: September 30, 1999.

Richard O. Weible,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–26587 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–810]

Chrome-Plated Lug Nuts From Taiwan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on chrome-plated lug nuts from Taiwan. The review covers 17 manufacturers/exporters of the subject merchandise to the United States for the period of review (''POR'') September 1, 1997, through August 31, 1998.

For all companies named in this review, we are basing our preliminary results on ''facts available'' (''FA''). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service (''Customs'') to assess antidumping duties on entries during the POR.

Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each comment (1) a statement of the issue and (2) a brief summary of their comment.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Nova Daly or Thomas Futtner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0989 or (202) 482–3814, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended, (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations codified at 19 CFR Part 351 (1998).

SUPPLEMENTARY INFORMATION:

Background

On September 20, 1991, the Department published the antidumping duty order on chrome-plated lug nuts from Taiwan (56 FR 47736). On September 30, 1998, the petitioner, Consolidated International Automotive, Inc. (''Consolidated''), requested that we conduct an administrative review for the period September 1, 1997, through August 31, 1998. We published a notice of ''Initiation of Antidumping and Countervailing Duty Administrative Review'' on October 29, 1997 (62 FR 58705), and sent questionnaires to the following firms: Anmax Industrial Co., Ltd. (''Anmax''), Buxton International Corporation (''Buxton''), Chu Fong Metallic Electric Co. (''Chu Fong''), Everspring Plastic Corp. (''Everspring''), Gingen Metal Corp. (''Gingen''), Gourmet Equipment (Taiwan) Corporation (''Gourmet''), Hwen Hsin Enterprises Co., Ltd. (''Hwen''), Kwan How Enterprises Co., Ltd. (''Kwan How''), Kwan Ta Enterprises Co. Ltd (''Kwan Ta''), Kuang Hong Industries, Ltd. (''Kuang''), Multigrand Industries Inc. (''Multigrand''), San Chien Electric Industrial Works, Ltd. (''San Chien''), San Shing Hardware Works Co., Ltd. (''San Shing''), Transcend International Co. (''Transcend''), Trade Union International Inc./Top Line (''Trade Union''), Uniauto, Inc. (''Uniauto'') and Wing Tang Electrical Manufacturing Company, Inc (''Wing''). Gourmet and Trade Union responded to the questionnaire.

Questionnaires that were sent to Transcend, Kwan How, Kwan Ta, Kuang, Everspring, and Gingen were returned as undeliverable. We are classifying these companies as ''unlocated companies'', and, in accordance with our practice with respect to companies to which we cannot send a questionnaire, are assigning them the ''all others'' rate established in the less-than-fair-value (''LTFV'') investigation, which was 6.93 percent. *See Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 60 FR 63503 (December 11, 1995); *see also Sweaters Wholly or in Chief Weight of Man-Made Fiber From Hong Kong; Final Results of Antidumping Duty Administrative Review,* 59 FR 13926 (March 24, 1994).

Scope of the Review

The merchandise covered by this review is one-piece and two-piece chrome-plated lug nuts, finished or unfinished, which are more than $1\frac{1}{16}$ inches (17.45 millimeters) in height and which have a hexagonal (hex) size of at least $\frac{3}{4}$ inches (19.05 millimeters), but not over one inch (25.4 millimeters), plus or minus $\frac{1}{16}$ of an inch (1.59 mm). The term ''unfinished'' refers to

unplated and/or unassembled chrome-plated lug nuts. The subject merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Zinc-plated lug nuts, finished or unfinished, and stainless-steel capped lug nuts are not within the scope of this review. Chrome-plated lock nuts are also not within the scope of this review.

During the period of review, chrome-plated lug nuts were provided for under subheading 7318.16.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and Customs purposes, our written description of the scope of this review is dispositive.

Facts Available

In accordance with section 776(a) of the Act, we preliminarily determine that the use of facts available is appropriate as the basis for dumping margins for Anmax, Buxton, Chu Fong, Multigrand, Uniauto, Hwen, San Chien, San Shing, Wing, Trade Union, and Gourmet. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and 782(e) of the Act, (C) significantly impedes a determination under the antidumping statute, or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, then the Department shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Because the following firms did not respond to the Department's antidumping questionnaire, and therefore, have withheld information that has been requested by the Department, we preliminarily determine that in accordance with section 776(a)(2)(A) of the Act, the use of facts available is appropriate for Anmax, Buxton, Chu Fong, Multigrand, Uniauto, Hwen, San Chien, San Shing, and Wing.

In addition, although Trade Union provided some information in response to the Department's questionnaire, its submission was untimely filed with the Department. Thus, we preliminarily determine that the use of facts available, in accordance with section 776(a)(2)(B) of the Act, is also warranted with respect to this company.

The Department also sent a questionnaire and supplemental questionnaires to Gourmet, which provided timely responses. However, as was determined in the previous segment of the proceeding, *see Chrome-Plated Lug Nuts From Taiwan; Final Results of Antidumping Duty Administrative Review,* 64 FR 17314 (April 9, 1999), due to the nature of Gourmet's accounting system, the Department would not be able to reconcile the data Gourmet submitted in its responses to the Department's questionnaires with Gourmet's financial statements or bank accounts. *See* comments in memo from Tom Futtner to Holly Kuga regarding the facts available decision for Gourmet, September 20, 1999 (''FA memo''). Section 776(a)(2)(D) allows the Department to use facts otherwise available in reaching the applicable determination if a respondent provides information but the requested information can not be verified.

As explained in more detail below, the aforementioned companies have failed to cooperate to the best of their ability to provide the information requested by the Department. As a consequence, we have used an adverse inference in selecting the facts available to determine their margins in accordance with section 776(b) of the Act.

Anmax, Buxton, Chu Fong, Multigrand, Uniauto, Hwen, San Chien, San Shing, and Wing received the Department's questionnaire and did not respond. These companies have received questionnaires in previous administrative reviews and have continued to abstain from participation. *See Chrome-Plated Lug Nuts From Taiwan; Preliminary Results of Antidumping Duty Administrative Review and Termination in Part,* 63 FR 53875 (October 7, 1998). Trade Union also has been a party to the antidumping proceedings for lug nuts from Taiwan in past administrative reviews. In this review, Trade Union received the Department's questionnaire but submitted its response over one month past the Department's deadline. Trade Union never requested an extension and, hence, the Department rejected its submission as untimely, pursuant to 19 CFR 351.302(d). Because these companies have either submitted no response or an untimely response to the Department's questionnaire, the Department finds that Anmax, Buxton, Chu Fong, Multigrand, Uniauto, Hwen, San Chien, San Shing, Wing, and Trade Union have not acted to the best of their ability and should be subject to adverse inferences for facts available under section 776(b) of the Act.

Gourmet submitted timely responses to the Department's questionnaire and supplemental questionnaire. However, in Gourmet's supplemental questionnaire, Gourmet indicated that it would not provide the Department with audited financial statements. Gourmet, as it had done in the previous review period, *see* Gourmet's March 10, 1999, supplemental questionnaire response, requested that the Department utilize an alternative method of verification in order to substantiate the information submitted in Gourmet's January 20, 1999, response to the Department's questionnaire. This method would be based on a reconciliation of the company's sales to its bank statements. However, as was determined in the previous review period, we do not consider this a reliable method on which to base our verification of the company's submitted sales data. *See Chrome-Plated Lug Nuts From Taiwan; Final Results of Antidumping Duty Administrative Review,* 64 FR 17314 (April 9, 1999). For further detail on this matter, also *see* FA memo. Reliance on the accounting system used for the preparation of the financial statements is a key and vital part of the Department's determination that a company's sales and constructed value data are credible. Although Gourmet is aware of the Department's requirements for verifiable submissions, it has, once again, provided information which the Department can not verify. Therefore, Gourmet has failed to cooperate by not acting to the best of its ability to comply with a request for information from the Department. Because its submission is not reconcilable, it is not verifiable. Consequently, we have determined, in accordance with section 776(b), that the use of adverse facts available also is warranted for Gourmet. Section 776(b) also authorizes the Department to use as adverse facts available, information derived from secondary information. In this case, we have used the highest rate from the proceeding, which is 10.67 percent. This rate was calculated in the *Amendment to the Final Determination of Sales at Less Than Fair Value* (56 FR 47737 September 20, 1991), covering the period May 1, 1990 through October 31, 1990.

Because information from prior segments of the proceeding constitutes secondary information, section 776(c) provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (''SAA'') provides that corroborate means simply that the Department will satisfy itself that the secondary information to be used has probative value. H.R. Doc. No. 103–316, Vol.1 at 870 (1994).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and

relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as facts available, the Department will disregard the margin and determine an appropriate margin, *see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review* (61 FR 63822, 63824 December 2, 1996), where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. No such circumstances exist in this case which would cause the Department to disregard a prior margin.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margins exist for the period September 1, 1997, through August 31, 1998:

Manufacturer/exporter	Percent margin
Gourmet Equipment (Taiwan) Corporation	10.67
Buxton International/Uniauto	10.67
Chu Fong Metallic Electric Co	10.67
Transcend International	6.93
San Chien Industrial Works, Ltd	10.67
Anmax Industrial Co., Ltd	10.67
Everspring Plastic Corp	6.93
Gingen Metal Corp	6.93
Hwen Hsin Enterprises Co., Ltd	10.67
Kwan How Enterprises Co., Ltd	6.93
Kwan Ta Enterprises Co., Ltd	6.93
Kuang Hong Industries Ltd	6.93
Multigrand Industries Inc	10.67
San Shing Hardware Works Co., Ltd	10.67
Trade Union International Inc./ Top Line	10.67
Uniauto, Inc	10.67
Wing Tang Electrical Manufacturing Company	10.67

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five (5) days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs are currently scheduled for submission within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five (5) days after the time limit for filing case briefs. Parties who submit an argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the deadline for submission of rebuttal briefs. The Department will issue a notice of the final results of this administrative review, including its analysis of issues raised in any case or rebuttal brief or at a hearing, not later than 120 days after the date of publication of this notice.

The Department shall determine, and Customs shall assess, based on the above rates, antidumping duties on all appropriate entries. The rate will be assessed uniformly on all entries supplied by that particular company during the POR. Upon completion of this review, the Department will issue appraisement instructions on each manufacturer/exporter directly to Customs.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of chrome plated lug nuts from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rates established in the final results of this administrative review (except no cash deposit will be required where the weighted-average margin is *de minimis, i.e.,* less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the LTFV investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews or the original investigation, the cash deposit rate will be 6.93 percent, the ''all others'' rate established in the LTFV investigation.

This notice serves as a preliminary reminder to importers of their responsibility, under 19 CFR 351.402(f), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 29, 1999.

Robert S. LaRussa,

Assistant Secretary, Import Administration.

[FR Doc. 99–26591 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews, Partial Rescission of the Antidumping Duty Administrative Review, and Rescission of the New Shipper Review for Yancheng Baolong Biochemical Products, Co. Ltd.: Freshwater Crawfish Tail Meat From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) in response to requests from petitioner and from respondent Ningbo Nanlian Frozen Foods Company, Ltd. (Ningbo Nanlian).

The Department is also conducting new shipper reviews in response to requests from respondents Yancheng Baolong Biochemical Products Co., Ltd. (Baolong Biochemical), Lianyungang Haiwang Aquatic Products Co., Ltd. (Haiwang) and Qingdao Rirong Foodstuff Co., Ltd. (Rirong), PRC exporters of subject merchandise. These reviews generally cover the period March 26, 1997 through August 31, 1998. *See* the ''Background'' section of this notice, below.

We preliminarily determine that sales have been made below normal value (NV). The preliminary results are listed below in the section titled ''Preliminary Results of Review.'' If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) or constructed export price (CEP), as applicable, and NV. Interested parties are invited to comment on these preliminary results. (*See* the ''Preliminary Results of Review'' section of this notice.)

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew Nulman, Michael Strollo, or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4052, (202) 482–5255, or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Background

The Department published in the **Federal Register** an antidumping duty order on freshwater crawfish tail meat from the PRC on September 15, 1997 (62 FR 48218). On September 16, 1998, in accordance with 19 CFR 351.213(b)(1), the Department received a request from respondent, Ningbo Nanlian, and on September 30, 1998, the Department received a request from petitioner, the Crawfish Processors Alliance (CPA), to conduct an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC. On October 26, 1998, the Department initiated this antidumping administrative review of the following companies: Ningbo Nanlian, Huaiyin Ningtai Fisheries Co., Ltd. (Huaiyin Ningtai), Nantong Delu Aquatic Food Co., Ltd. (Nantong Delu), Binzhou Prefecture Foodstuffs Import & Export Corp. (Binzhou Foodstuffs), Yancheng Foreign Trade Corp. (Yancheng FTC), Yancheng Baolong Aquatic Foods Co., Ltd. (Baolong Aquatic), China Everbright Trading Company (China Everbright), Huaiyin Foreign Trade Corp. (Huaiyin FTC), and Jiangsu Cereals, Oils & Foodstuffs Import & Export Corp. (Jiangsu Ceroilfood). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews,* 63 FR 58010 (October 29, 1998). This administrative review covers the period of March 26, 1997 through August 31, 1998, except with respect to Ningbo Nanlian. The period of review for Ningbo Nanlian is April 1, 1998 through August 31, 1998, because we reviewed sales for Ningbo Nanlian prior to April 1, 1998 in our new shipper review of this firm. *See Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review,* 64 FR 27961 (May 24, 1999) (*Ningbo New Shipper Review*).

On September 29, 1998, the Department received requests from Haiwang and Rirong, and on September 30, 1998, the Department received a request from Baolong Biochemical, for new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC. These requests were pursuant to section 751(a)(2)(B) of the Act and section 351.214(b) of the Department's regulations, which state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period covered by the original investigation (the POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer. The regulations require that the exporter or producer shall include in its request, with appropriate certifications: (i) The date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States, or if the merchandise has not yet been shipped or entered, the date of sale; (ii) a list of the firms with which it is affiliated; (iii) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the POI; and (iv) in an antidumping proceeding involving inputs from a non-market-economy (NME) country, a certification that the export activities of such exporter or producer are not controlled by the central government. *See* 19 CFR 351.214(b)(ii) and (iii).

Haiwang's, Rirong's, and Baolong Biochemical's requests were accompanied by information and certifications establishing the effective date on which each company first shipped and entered freshwater crawfish tail meat for consumption in the United States, the volume of each shipment, and the date of first sale to an unaffiliated customer in the United States. Haiwang, Rirong and Baolong Biochemical each claimed it had no affiliated companies which exported freshwater crawfish tail meat from the PRC during the POI. In addition, Haiwang, Rirong, and Baolong Biochemical each certified that its export activities are not controlled by the central government. On October 30, 1998, the Department initiated these new shipper reviews covering the period March 26, 1997 through August 31, 1998. These new shipper reviews cover the same period as the administrative review. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of New-Shipper Antidumping Administrative Review,* 63 FR 59762 (November 5, 1998). In our initiation notice, we noted that Haiwang and Rirong agreed to waive the standard deadlines for new shipper reviews, and that, in accordance with section 751(a) of the Act and 19 CFR 351.214(j)(3), we were conducting new shipper reviews for these parties concurrent with the administrative review initiated on October 29, 1998 (63 FR 58009).

Due to extraordinarily complicated issues in this case, the Department extended the deadline for completion of the administrative review and the new shipper reviews for Rirong, Haiwang and Baolong Biochemical on March 5, 1999. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of the Antidumping Duty Administrative Review,* 64 FR 13398 (March 18, 1999), *Freshwater Crawfish Tail Meat from the*

People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of New Shipper Antidumping Duty Administrative Review, 64 FR 13399 (March 18, 1999), and *Freshwater Crawfish Tail Meat from the People's Republic of China: Extension of Preliminary Results of a New-Shipper Antidumping Review,* 64 FR 12977 (March 16, 1999). On July 16, 1999, the Department published a second extension. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Reviews,* 64 FR 38409. Also on July 16, 1999, the Department published an extension for the new shipper review of Baolong Biochemical. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of New Shipper Antidumping Duty Review,* 64 FR 38408.

On August 6, 1999, we received a request from Baolong Biochemical to conduct its new shipper review concurrently with the administrative review, in accordance with 19 CFR 351.214(j)(3). Therefore, pursuant to section 751(a) of the Act and 19 CFR 351.214(j)(3), we are conducting the new shipper review for Baolong Biochemical concurrently with the administrative review. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Postponement of New Shipper Antidumping Duty Review,* 64 FR 46181 (August 24, 1999).

Partial Rescission of Administrative Review

At the request of petitioner, we initiated a review of China Everbright and Jiangsu Ceroilfood. However, on December 7, 1998, China Everbright informed the Department that it had no shipments of the subject merchandise to the United States during the period of review (POR). On December 28, 1998, Jiangsu Ceroilfood informed the Department that it had no shipments of the subject merchandise to the United States during the POR. We independently confirmed with the United States Customs Service that there were no shipments from either China Everbright or Jiangsu Ceroilfood during the POR. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations and consistent with Department practice, we are rescinding our review of China Everbright and Jiangsu Ceroilfood. The cash deposit rates for China Everbright and Jiangsu Ceroilfood will continue to be the company-specific rates for these companies, as established in the amended final determination in the investigation and the antidumping duty order. See *Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat From the People's Republic of China,* 62 FR 48218 (September 15, 1997)(*Amended Final Determination*).

Rescission of New Shipper Review for Baolong Biochemical

A review of information on the record with respect to Baolong Biochemical has led us to conclude that Baolong Biochemical did not have a *bona fide* sale to the United States during the review period, and thus is not entitled to a review under section 751(a)(2)(B) of the Act. Baolong Biochemical's sales of crawfish tail meat to the United States fall outside of its normal business, which is the processing of crawfish shells into intermediary products used to produce medicinal products and animal feed. Baolong has no facilities to produce subject merchandise. Moreover, the terms and conditions of Baolong's sales are not normal for the industry. For a further discussion of these issues, see Memorandum to Robert S. LaRussa through Joseph A. Spetrini from Barbara E. Tillman: *Issues for the Preliminary Results of Review Concerning Bona Fide Sales and the Use of Facts Available (Decision Memorandum*), dated September 30, 1999. Because Baolong Biochemical has no *bona fide* sales during the POR, we are rescinding the new shipper review of Baolong Biochemical. We will instruct the Customs Service to require the posting of cash deposits, rather than bond, for imports of crawfish exported by Baolong Biochemical.

Scope of Reviews

The product covered by these reviews is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 0306.19.00.10 and 0306.29.00.00. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Review Period

These new shipper and antidumping duty reviews cover the period March 26, 1997 through August 31, 1998, except for the review of Ningbo Nanlian, which covers the period April 1, 1998 through August 31, 1998, as explained above.

Verification

As provided in section 782(i) of the Act, we conducted a verification of Haiwang. We also conducted a verification of Rirong and its unaffiliated producer, Weishan Hongfa Lake Foodstuff Co., Ltd. (Hongfa), and Baolong Biochemical and its unaffiliated producer, Jiangsu Zhenfeng Group Food Company (Zhenfeng). We used standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public version of the verification reports. Huaiyin FTC was not verified because the company refused to permit verification to take place. *See* letter from Huaiyin FTC to the Department dated May 21, 1999.

Application of Facts Available

Section 776(a)(2) of the Act provides that if any interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes an antidumping investigation; or (D) provides such information but the information cannot be verified, the Department shall use the facts otherwise available (FA) in reaching the applicable determination under this title.

As noted above, Huaiyin FTC refused verification of its questionnaire response. Because Huaiyin FTC did not allow the Department to verify the information it submitted, we could not use the information. Therefore, in accordance with section 776(a)(2)(D) of the Act, the use of FA is required for Huaiyin FTC. *See Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part,* 64 FR 30481 (June 8, 1999).

With respect to Binzhou Foodstuffs, Huaiyin Ningtai, and Baolong Aquatic, we preliminarily determine that, in accordance with section 776(a)(2)(A) of the Act, the use of FA is required because these firms did not respond to the Department's antidumping

questionnaire. *See Silicon Metal From The People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review,* 63 FR 11654 (March 10, 1998) and *Silicon Metal From The People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 63 FR 37850 (July 14, 1998).

Two firms, Yancheng FTC and Nantong Delu, failed to file their questionnaire responses in the proper manner and to serve responses on the other interested parties in this review, as required by sections 351.303 and 351.304 of the Department's regulations. The Department afforded Yancheng FTC and Nantong Delu numerous opportunities to remedy these deficiencies. Neither company complied with the applicable regulations. Consequently, the information was returned to Yancheng FTC on February 19, 1999, and to Nantong Delu on April 5, 1999. Because Yancheng FTC and Nantong Delu failed to respond to our requests in the form and manner requested, we determine that they did not cooperate to the best of their ability with our requests for information. Therefore, pursuant to section 776(a)(2)(B) of the Act, the use of FA is required for Yancheng FTC and Nantong Delu.

While all six companies received separate rates in the original investigation, it is the Department's policy that separate-rates questionnaire responses must be evaluated each time a respondent makes a separate rate claim, regardless of any separate rate the respondent received in the past. *See Manganese Metal from the People's Republic of China, Final Results and Partial Recission of Antidumping Duty Administrative Review,* 63 FR 12441 (March 13, 1998). However, for companies for which no questionnaire response is on the record, or which refuse verification, we are unable to evaluate whether a separate rate would be appropriate. In the instant administrative review, these companies failed to provide complete and accurate responses which could be used in the determination of separate rates. Therefore, consistent with Department practice, we are treating these companies, together with all other PRC companies that have not established that they are entitled to separate rates, as a single enterprise subject to government control. Thus, we have determined the rate applied to this single enterprise, the PRC-wide rate, based on adverse FA, in accordance with section 776(b) of the Act.

We were unable to verify a significant part of Haiwang's questionnaire response. Specifically, Haiwang claimed that it produced the crawfish sold to the United States during the POR and submitted information on its factors of production. However, based on our on-site verification, we preliminarily determine that Haiwang's response, particularly the factors of production data, is unreliable and unverifiable. Because much of the relevant information is proprietary, it is not possible to discuss the issue in this public notice. *See Decision Memorandum* and the *New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Sales and Factors of Production Verification of Lianyungang Haiwang Aquatic Products Co., Ltd.*, dated September 30, 1999 (*Haiwang Verification Report*). Therefore, pursuant to 776(a)(2)(D), we are using FA for Haiwang.

We preliminarily determine, in accordance with section 776(b) of the Act, that the use of adverse FA is appropriate for Haiwang, as well as for the PRC enterprise. *See Determination of Adverse Facts Available in the Administrative and New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China (Adverse Facts Available Memorandum*), dated September 30, 1999.

Under section 776(b) of the Act, adverse FA may include reliance on information derived from: (1) the petition, (2) a final determination in the investigation, (3) any previous review under section 751 of the Act or determination under section 753 of the Act, or (4) any other information placed on the record. In this case, for Haiwang and the PRC-wide rate, we have used the highest rate from the petition, 201.63 percent, which was the PRC-wide rate in the final determination (*see Amended Final Determination*).

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information, such as the petition, using independent sources reasonably at its disposal. The Statement of Administrative Action, H.R. Doc. 316, Vol. 1, 103d Cong., 2d Sess. 870 (1994) (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA, at 870. The petition rate being used in this proceeding was previously corroborated. *See* the *Concurrence Memorandum; Final Antidumping Determination Freshwater Crawfish Tail Meat from the People's Republic of China,* dated July 24, 1997. We have no new information that would lead us to reconsider that decision.

Affiliation Issues

We have placed on the record of the new shipper reviews of Baolong Biochemical and Haiwang third party allegations that these companies may be affiliated with companies that exported during the investigation. With respect to the new shipper review of Haiwang, we intend to request more information regarding this issue and will evaluate such information for the final results of review. With respect to the new shipper review of Baolong Biochemical, this issue is moot because we are rescinding the review due to the absence of *bona fide* sales during the period of review.

Market-Oriented Industry (MOI) Status

Jiangsu Ceroilfood claims that its material inputs are acquired at market prices, and that, accordingly, the Department should find that the crawfish tail meat industry in the PRC is a MOI. Thus, Jiangsu Ceroilfood claims, the Department should value these inputs using the actual prices it pays in the PRC.

Because Jiangsu Ceroilfood had no shipments of the subject merchandise during the POR, we are rescinding the review of this company in accordance with section 351.213(d)(3) of the Department's regulations. Consequently, we are not evaluating the MOI claim of Jiangsu Ceroilfood during the course of this administrative review.

Separate Rates

Baolong Biochemical, Haiwang, Ningbo Nanlian, Jiangsu Ceroilfood, and Rirong have requested separate, company-specific rates. Because we are rescinding the new shipper review for Baolong Biochemical and the administrative review for Jiangsu Ceroilfood, we are not addressing the question of a separate rate with respect to these companies.

In their questionnaire responses, Haiwang, Ningbo Nanlian and Rirong state that they are independent legal entities. Ningbo Nanlian and Rirong have furthermore reported they are PRC-foreign joint ventures. Haiwang has reported that it is a wholly foreign-owned enterprise.

To establish whether a company operating in a NME country is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by the *Final*

Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994). Under this policy, exporters in NMEs are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

De Jure Control

With respect to the absence of *de jure* government control over its export activities, evidence on the record indicates that Haiwang is not controlled by the government. Haiwang submitted evidence of its legal right to set prices independent of all government oversight. Haiwang's business licence and certificate of approval indicate that Haiwang is a foreign wholly-owned enterprise. We find no evidence of *de jure* government control restricting Haiwang from the exportation of crawfish. See *Section A Response,* Haiwang, pages A–1 through A–8, and exhibits 2 through 4 (December 15, 1998).

With respect to the absence of *de jure* government control over its export activities, evidence on the record indicates that Ningbo Nanlian and its affiliated producer, Yinxian No. 2 Freezing Factory (Y2FF), are not controlled by the government. Ningbo Nanlian submitted evidence of its legal right to set prices independent of all government oversight. Ningbo Nanlian's business license indicates that Ningbo Nanlian is permitted to engage in the exportation of crawfish. See *Section A Response,* Ningbo Nanlian, pages A–4 through A–8, and exhibits 2–5 (December 8, 1998).

With respect to the absence of *de jure* government control over its export activities, evidence on the record indicates that Rirong is not controlled by the government. Rirong submitted evidence of its legal right to set prices independent of all government oversight. Rirong's business licence and certificate of approval indicate that Rirong is a Sino-foreign joint venture enterprise. We find no evidence of *de jure* government control restricting Rirong from the exportation of crawfish. See *Section A Response,* Rirong, pages A–1 through A–6, and exhibits 2 through 4 (December 15, 1998).

No export quotas apply to crawfish and an export license is not required for exports of the subject merchandise to the United States. *See* the *Section A Responses* of Rirong and Haiwang, both dated December 15, 1998. Prior verifications have confirmed that there are no export licenses required and no quotas for the seafood category ''Other,'' which includes crawfish, in *China's Tariff and Non-Tariff Handbook* for 1996. In addition, we have previously confirmed that crawfish is not on the list of commodities with planned quotas in the 1992 PRC Ministry of Foreign Trade and Economic Cooperation document entitled *Temporary Provisions for Administration of Export Commodities*. (*See Freshwater Crawfish Tail Meat From The People's Republic of China; Preliminary Results of New Shipper Review,* 64 FR 8543, (February 22, 1999) and *Ningbo New Shipper Review*.)

The Administrative Regulations of the People's Republic of China for Controlling the Registration of Enterprises as Legal Persons (Legal Persons Regulations), issued on July 13, 1988 by the State Administration for Industry and Commerce of the PRC and placed on the record of these reviews, provide that, to qualify as legal persons, companies must have the ''ability to bear civil liability independently'' and the right to control and manage their businesses. These regulations also state that as an independent legal entity, a company is responsible for its own profits and losses. (*See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China,* 60 FR 56046 (November 6, 1995) (*Manganese Metal*) and *Section A Response,* Ningbo Nanlian, December 8, 1998.) *The People's Republic of China All People's Ownership Business Law* (*Company Law*), also on the record of these reviews, states that a foreign company shall bear civil responsibility for the operational activities of its branch organization in China. *See Section A Response,* Ningbo Nanlian, December 7, 1998. At verification, we saw that business licenses for Ningbo Nanlian and Rirong were established in accordance with these laws. (Haiwang provided copies of the *Foreign Investment Enterprise Law* (See exhibit 1 of the April 13, 1999 supplemental questionnaire response) which states that ''sole foreign investment enterprise * * * shall have right of autonomy in its operation and administration and any [government] interference shall be prohibited.'' Therefore, with respect to the absence of *de jure* control over export activity, we determine that these firms are independent legal entities.

De Facto Control

With respect to the absence of *de facto* control over export activities, the information presented indicates that the management of Haiwang, Ningbo Nanlian and Rirong is responsible for all decisions such as the determination of export prices, profit distribution, marketing strategy, and contract negotiations. Our analysis indicates that there is no government involvement in the daily operations or the selection of management for Haiwang, Ningbo Nanlian or Rirong. *See Section A Response,* Ningbo Nanlian, page A–6 through A–8 and A–10, and exhibit 5, (December 8, 1998); *Section A Response,* Rirong, pages A–5, A–7 and A–9 through A–10 and exhibit 6 (December 15, 1998); and *Section A Response,* Haiwang, pages A–5 to A–8 and exhibit 6 (December 15, 1998). For more information, see *Separate Rate Analysis in the New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China* dated September 30, 1999 (*Separate Rates Memoranda*), which are on file in the Central Records Unit (room B099 of the Main Commerce Building).

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over their export activities, we preliminarily determine that these exporters are entitled to separate rates. For further discussion of the Department's preliminary determination that these exporters are entitled to separate rates, *see* the *Separate Rates Memoranda.*

Normal Value Comparisons

To determine whether respondents' sales of the subject merchandise to the United States were made at NV, we compared their United States prices to NV, as described in the ''United States

Price'' and ''Normal Value'' sections of this notice.

United States Price

For sales made by Ningbo Nanlian, we based United States price on CEP in accordance with section 772(b) of the Act, because the sales to unaffiliated purchasers were made after importation. We calculated CEP based on packed prices from the U.S. affiliate's warehouse to the first unaffiliated purchaser in the United States. We made the following deductions from the starting price (gross unit price): foreign inland freight, international (ocean) freight, U.S. customs duty, brokerage and handling expenses, the affiliated purchaser's U.S. credit expenses, the affiliated purchaser's indirect selling expenses, and CEP profit. *See* sections 772(c) and (d) of the Act. Because U.S. customs duty, brokerage and handling expenses, credit expenses and indirect selling expenses incurred by the U.S. affiliate are market-economy costs incurred in U.S. dollars, we used actual costs rather than surrogate values to value these deductions to gross unit price. Consistent with the original investigation and the *Ningbo Nanlian New Shipper Review*, we valued other expenses using India as a surrogate country. We valued movement expenses as follows:

- To value truck freight, we used the rates reported in an April 20, 1994 newspaper article in the ''Times of India'' and submitted for the *Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From the People's Republic of China*, 60 FR 52647 (October 10, 1995). We adjusted the rates to reflect inflation through the POR using wholesale price indices (WPI) for India in the *International Financial Statistics* (*IFS*) published by the International Monetary Fund (IMF).
- To value brokerage and handling in the home market, we used information reported in the antidumping administrative review of *Certain Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews*, 63 FR 48184 (September 9, 1998) (*Stainless Steel Wire Rod from India*), and also used in the *Ningbo New Shipper Review*.

We used the average of the foreign brokerage and handling expenses reported in the U.S. sales listing portion of the public questionnaire response submitted in the antidumping review of Viraj Impoexpo in *Stainless Steel Wire Rod from India*. We also used this average value for Ningbo Nanlian for the period February 1997 through January 1998. Charges were reported on a per metric ton basis. For further discussion, *see* Memorandum to Barbara E. Tillman through Maureen Flannery from The Crawfish Team, *Freshwater Crawfish Tail Meat from the People's Republic of China: Factor Values Memorandum*, (*Factor Values Memorandum*) dated September 30, 1999.

- To value ocean freight, we obtained publicly available price quotes from Sea Land Services for shipping frozen crawfish tail meat from the PRC to Long Beach, California in the United States. *See Factor Values Memorandum*. To adjust this rate to the POR, we used the closest corresponding monthly WPI and the WPI average for the POR.

For Rirong, we based United States price on EP in accordance with section 772(a) of the Act, because the first sales to unaffiliated purchasers were made prior to importation, and CEP was not otherwise warranted by the facts on the record. We calculated EP based on packed prices from the exporter to the first unaffiliated purchaser in the United States. We deducted foreign inland freight and brokerage and handling expenses in the home market from the starting price (gross unit price) in accordance with 772(c) of the Act. Consistent with the original investigation and the *Ningbo Nanlian New Shipper Review*, we used India as a surrogate country for all expenses for non-market-economy suppliers. We valued movement expenses as follows:

- To value truck freight, we used the rates reported in an April 20, 1994 newspaper article in the ''Times of India'' and submitted for the *Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From the People's Republic of China*, 60 FR 52647 (October 10, 1995). We adjusted the rates to reflect inflation through the POR using WPI for India in the IFS published by the IMF.
- To value brokerage and handling in the home market, we used information reported in the antidumping administrative review of *Stainless Steel Wire Rod from India*, and also used in *Ningbo New Shipper Review*.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the companies contested such treatment in this review. Accordingly, we have applied surrogate values to the factors of production to determine NV.

We calculated NV based on factors of production in accordance with section 773(c)(4) of the Act and section 351.408(c) of our regulations. Consistent with the original investigation and the *Ningbo Nanlian New Shipper Review*, we determined that India (1) is comparable to the PRC in level of economic development, and (2) is a significant producer of comparable merchandise. With the exception of the crawfish input, we valued the factors of production using publicly available information from India. For the crawfish input, we used Spanish import statistics for crawfish imported from Portugal. *See the Factor Values Memorandum*. We used import prices to value many factors. As appropriate, we adjusted import prices by adding freight expenses to make them delivered prices. For a complete analysis of surrogate values, see the *Factor Values Memorandum*.

We valued the factors of production as follows:

- To value whole crawfish, we used the average Spanish import price for fresh (not frozen) crawfish imported from Portugal. In order to factor out seasonal fluctuations in the price of the Spanish import data, we valued whole crawfish using data from the calendar year 1997, the most recent period for which data is available. Spanish import data show insignificant amounts of crawfish from other countries at aberrational prices and, therefore, it would not be appropriate to include these data in the calculation of the crawfish cost. These data are publicly available and are published by the Spanish Ministry of Customs in Madrid. Since the factors of production were reported for a period concurrent with our valuation of the crawfish input, we did not adjust these factor values. *See* the *Factor Values Memorandum* for further discussion.
- To value the by-product of shells in the investigation and the *Ningbo New Shipper Review*, we used Indian import data for HTS category 0508.00.05, ''shells of mollusks, crustaceans, and echinoderms.'' The petitioner has argued in these reviews, as it did in the *Ningbo New Shipper Review*, that Indian import prices are aberrational. In the *Ningbo New Shipper Review*, we

found that no other tariff classifications for comparable merchandise are as detailed as the Indian HTS category under which we valued the crawfish shells. In these reviews, petitioner has argued that the Indian tariff category under which we valued the crawfish shells is over broad and includes different items with much higher values. HTS category 0508.00.05 includes echinoderms. Petitioner has maintained that echinoderms, such as starfish, which do not have shells and do not contain chitin (the chemical that makes crustacean shells valuable), are traded only for decorative purposes, thereby inflating the overall value of this tariff category. To substantiate its argument for these reviews, petitioner has placed on the record information demonstrating that the resulting Indian import price of 56 cents per pound for crawfish shells is highly exaggerated, including: (1) an offer to sell dried, crushed crab shells from an electronic bulletin board, (2) a delivered price for wet crustacean shells reported in a study on marine biopolymers, and (3) a price for crustacean scrap sold in India, calculated from a report detailing chitin and chitosan exports using established yields from crawfish shells for the production of chitosan. All of these items show significantly lower prices for shells of crustacean than the 55 cents per pound used in the *Ningbo New Shipper Review*. In addition, we know that the price of the Spanish whole, live, crawfish is 59 cents per pound. Finally, we received from the U.S. Embassy in Sri Lanka information indicating that Sri Lankan exports consist of conch shells and chanks for decorative purposes. *See Memorandum to the File; Cables from U.S. Embassies in Sri Lanka and Switzerland regarding Crustacean Shells,* September 30, 1999. Based on this information taken as a whole, we determine that the Indian import statistics are an inappropriate surrogate value for crawfish shells.

Some of the alternate information currently on the record is internally inconsistent, is quite old, or possibly includes items other than crawfish shells. For these preliminary results, we applied a surrogate value based on a free-on-board (FOB) factory price quote for crab and shrimp shells from a Canadian seller of crustacean shells. We chose this price from any available alternatives because it is an actual price for crustacean scrap that is reasonably contemporaneous with the POR. We adjusted this price to reflect deflation to the crawfish processing season applicable for each of the companies. *See* the *Factor Value Memorandum*.

We have requested additional information relating to shell scrap prices in a number of countries. For the final results of these reviews, we will consider any information we receive 45 days prior to the deadline for the final results.

- To value coal and electricity, we used data reported as the average Indian domestic prices within the categories of ''Steam Coal for Industry'' and ''Electricity for Industry,'' published in the International Energy Agency's publication, *Energy Prices and Taxes, First Quarter, 1998.* We adjusted the cost of coal to include an amount for transportation. For water, we relied upon public information from the November 1993 *Water Utilities Data Book: Asian and Pacific Region,* published by the Asian Development Bank. To achieve comparability of the energy and water prices to the factors reported for the crawfish processing periods applicable for the companies under review, we adjusted these factor values using the WPI for India, as published in the *IFS,* to reflect inflation through the applicable periods.
- To value plastic bags, cardboard boxes and adhesive tape, we relied upon Indian import data from the April 1997 through March 1998 issues of *Monthly Statistics of the Foreign Trade of India* (*Monthly Statistics*). We adjusted the values of packing materials to include freight costs incurred between the supplier and the factory. For transportation distances used for the calculation of freight expenses on raw materials, we added to surrogate values from India a surrogate freight cost using the shorter of (a) the distances between the closest PRC port and the factory, or (b) the distance between the domestic supplier and the factory. *See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China,* 62 FR 51410 (October 1, 1997) (*Roofing Nails*). Since not all companies reported the same crawfish processing periods, we adjusted the reported factor values to reflect inflation through the applicable periods for each company.
- To value factory overhead, selling, general, and administrative expenses (SG&A), and profit, we calculated simple average rates using publicly available financial statements of three Indian seafood processing companies submitted in the original investigation for which more current data is now available, and applied these rates to the calculated cost of manufacture. *See Factor Values Memorandum*.
- For labor, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 1999. *See http://www.ita.doc.gov/import_admin/records/wages.* Because of the variability of wage rates in countries with similar per capita GDPs, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of these wage rate data on the Import Administration's Web site is found in the *1998 Year Book of Labour Statistics,* International Labour Office (Geneva: 1998), Chapter 5: Wages in Manufacturing.

Currency Conversion

We made currency conversions pursuant to section 351.415 of the Department's regulations at the rates certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter (percent)	Time period	Margin
Lianyungang Haiwang Aquatic Products Co., Ltd.	3/26/97–8/31/98	201.63
Ningbo Nanlian Frozen Foods Company, Ltd.	4/01/98–8/31/98	0.00
Qingdao Rirong Foodstuff Co., Ltd.	3/26/97–8/31/98	0.00
PRC-Wide Rate*	3/26/97–8/31/98	201.63

*Binzhou Prefecture Foodstuffs Import & Export Corp., Huaiyin Foreign Trade Corp., Huaiyin Ningtai Fisheries Co., Ltd., Nantong Delu Aquatic Food Co., Ltd., Yancheng Baolong Aquatic Foods Co., Ltd., and Yancheng Foreign Trade Corp. are subject to the PRC-wide rate of 201.63 percent.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication in accordance with 19 CFR 351.310(c). Any hearing would normally be held 37 days after the publication of this notice, or the first

workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(2). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. Parties who submit arguments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of these administrative and new shipper reviews, which will include the results of its analysis of issues raised in the briefs, within 120 days from the publication of these preliminary results.

Upon completion of these administrative and new shipper reviews, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. For assessment purposes, we intend to calculate importer-specific assessment rates for freshwater crawfish tail meat from the PRC. For both EP and CEP sales, we will divide the total dumping margins (calculated as the difference between NV and EP (or CEP)) for each importer by the entered value of the merchandise. Upon the completion of this review, we will direct Customs to assess the resulting *ad valorem* rates against the entered value of each entry of the subject merchandise by the importer during the POR.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the reviewed firms will be the rates indicated above; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the rate will be the PRC-wide rate, which is 201.63 percent; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review, these new shipper reviews, and this notice are published in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and sections 351.213, 351.214 and 351.221 of the Department's regulations.

Dated: September 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–26589 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–837]

Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to a request by the respondents, Tokyo Kikai Seisakusho, Ltd. and Mitsubishi Heavy Industries, Ltd., the Department of Commerce is conducting administrative reviews of the antidumping duty order on large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan. These reviews cover Mitsubishi Heavy Industries, Ltd. and Tokyo Kikai Seisakusho, Ltd., manufacturers/exporters of the subject merchandise to the United States. The periods of review for Mitsubishi Heavy Industries, Ltd. are September 5, 1996, through August 31, 1997, and September 1, 1997, through August 31, 1998. The period of review for Tokyo Kikai Seisakusho is September 1, 1997, through August 31, 1998.

We preliminarily determine that sales have been made below normal value for Mitsubishi Heavy Industries. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries. For Tokyo Kikai Seisakusho, we have preliminarily determined that sales have not been made below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service not to assess antidumping duties on entries subject to this review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Dinah McDougall, Kate Johnson, or David J. Goldberger, Office 2, AD/CVD Enforcement Group I, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202)

482–3773, 482–4929, or 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations at 19 CFR Part 351 (April 1998).

Background

On July 23, 1996, the Department published in the **Federal Register**, 61 FR 38139, the final affirmative antidumping duty determination on large newspaper printing presses and components thereof, whether assembled or unassembled (LNPP), from Japan. We published an antidumping duty order on September 4, 1996 (61 FR 46621).

On September 30, 1997, Mitsubishi Heavy Industries, Ltd. (MHI) requested that the Department defer for one year the initiation of its review of entries subject to the above-referenced order covering the period September 5, 1996, to August 31, 1997. *See Initiation of Antidumping Duty and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review,* 62 FR 58705 (October 30, 1997).

On September 16, 1998, the Department published in the **Federal Register** a notice advising of the opportunity to request an administrative review of this order for the period September 1, 1997, through August 31, 1998 (63 FR 49543). The Department received a request for an administrative review of MHI and Tokyo Kikai Seisakusho, Ltd. (TKS) by MHI and TKS, respectively. We published a notice of initiation of the MHI reviews on October 29, 1998 (63 FR 58009). With respect to MHI's sale to the United States, we extended the period of review (POR) to reflect the extended period of time over which the entries and production processes occurred. The initiation of the TKS review was published on November 30, 1998 (63 FR 65748).

On November 17, 1998, and January 21, 1999, Goss Graphic Systems, Inc. (the petitioner) requested that the Department determine whether antidumping duties have been absorbed during the POR. On February 5, 1999, the Department requested proof that unaffiliated purchasers will ultimately pay the antidumping duties to be assessed on entries during the review periods.

On March 4, 1999, the Department extended the time limit for the preliminary results in these reviews until September 30, 1999. *See Postponement of Preliminary Results of the First and Second Administrative Reviews of the Antidumping Duty Order,* 64 FR 10444.

On July 20, 1999, the Department published a *Notice of Initiation of Changed Circumstances Review of the Antidumping Duty Order* pursuant to a request by the petitioner to partially revoke the antidumping duty order on the subject merchandise for LNPPs that meet a specific set of criteria; namely, imports of the elements and components of LNPP systems, and additions thereto, imported to fulfill a contract for one or more complete LNPP systems which feature a 22 inch cut-off, 50 inch web width and a rated speed no greater than 75,000 copies per hour, utilizing exclusively the type of printing unit and color keyless inking system detailed in the petitioner's request, in a tower configuration coupled with folder, reel tension paster, conveyance and access apparatus, and computerized control system meeting all of the specifications described in Goss' request (*see* 64 FR 38888). The changed circumstances review is currently underway as a separate proceeding and the Department will make its preliminary determination in that proceeding after these preliminary results.

The Department is conducting these reviews in accordance with section 751(a) of the Act.

Scope of the Reviews

The products covered by these reviews are large newspaper printing presses, including press systems, press additions and press components, whether assembled or unassembled, whether complete or incomplete, that are capable of printing or otherwise manipulating a roll of paper more than two pages across. A page is defined as a newspaper broadsheet page in which the lines of type are printed perpendicular to the running of the direction of the paper or a newspaper tabloid page with lines of type parallel to the running of the direction of the paper.

In addition to press systems, the scope of these reviews includes the five press system components. They are: (1) A printing unit, which is any component that prints in monocolor, spot color and/or process (full) color; (2) a reel tension paster, which is any component that feeds a roll of paper more than two newspaper broadsheet pages in width into a subject printing unit; (3) a folder, which is a module or combination of modules capable of cutting, folding, and/or delivering the paper from a roll or rolls of newspaper broadsheet paper more than two pages in width into a newspaper format; (4) conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheet pages across through the production process and which provides structural support and access; and (5) a computerized control system, which is any computer equipment and/or software designed specifically to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

A press addition is comprised of a union of one or more of the press components defined above and the equipment necessary to integrate such components into an existing press system.

Because of their size, large newspaper printing press systems, press additions, and press components are typically shipped either partially assembled or unassembled, complete or incomplete, and are assembled and/or completed prior to and/or during the installation process in the United States. Any of the five components, or collection of components, the use of which is to fulfill a contract for large newspaper printing press systems, press additions, or press components, regardless of degree of assembly and/or degree of combination with non-subject elements before or after importation, is included in the scope of these reviews. Also included in the scope are elements of a LNPP system, addition or component, which taken altogether, constitute at least 50 percent of the cost of manufacture of any of the five major LNPP components of which they are a part.

For purposes of these reviews, the following definitions apply irrespective of any different definition that may be found in Customs rulings, U.S. Customs law or the Harmonized Tariff Schedule of the United States (HTSUS): (1) The term ''unassembled'' means fully or partially unassembled or disassembled; and (2) the term ''incomplete'' means lacking one or more elements with which the LNPP is intended to be equipped in order to fulfill a contract for a LNPP system, addition or component.

This scope does not cover spare or replacement parts. Spare or replacement parts imported pursuant to a LNPP contract, which are not integral to the

original start-up and operation of the LNPP, and are separately identified and valued in a LNPP contract, whether or not shipped in combination with covered merchandise, are excluded from the scope of these reviews. Used presses are also not subject to this scope. Used presses are those that have been previously sold in an arm's-length transaction to a purchaser that used them to produce newspapers in the ordinary course of business.

Further, these reviews cover all current and future printing technologies capable of printing newspapers, including, but not limited to, lithographic (offset or direct), flexographic, and letterpress systems. The products covered by these reviews are imported into the United States under subheadings 8443.11.10, 8443.11.50, 8443.30.00, 8443.59.50, 8443.60.00, and 8443.90.50 of the HTSUS. Large newspaper printing presses may also enter under HTSUS subheadings 8443.21.00 and 8443.40.00. Large newspaper printing press computerized control systems may enter under HTSUS subheadings 8471.49.10, 8471.49.21, 8471.49.26, 8471.50.40, 8471.50.80, and 8537.10.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these reviews is dispositive.

Duty Absorption

On November 17, 1998, and on January 21, 1999, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. In this case, both MHI and TKS sold to the United States through an importer that is affiliated within the meaning of section 751(a)(4) of the Act.

Section 351.213(j)(1) of the Department's regulations provides that during any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping order, the Department will conduct a duty absorption review, if requested. Because these reviews were initiated two years after the publication of the order, we are making a duty absorption determination in this segment of the proceeding.

The Department's February 5, 1999, antidumping questionnaire requested proof that unaffiliated purchasers will ultimately pay the antidumping duties to be assessed on entries during the review periods. On March 8, 1999, MHI, instead of providing the requested data, argued that the object of a duty absorption inquiry—to ascertain whether a respondent changed its conduct after an antidumping duty order was imposed—is inapplicable in MHI's case because the sole U.S. sale under review in this segment of the proceeding, the Washington Post sale, was made prior to the imposition of an antidumping duty order. However, the fact that the date of sale occurred prior to the imposition of the order is not relevant in this case, where entries pursuant to this sale occurred during the POR. Moreover, based on MHI's contractual information on the record (*see* Memo to the File from the Team dated September 30, 1999), we cannot conclude that the unaffiliated purchaser in the United States will pay the ultimately assessed duty. Furthermore, because we have preliminarily determined that there is a dumping margin on MHI's U.S. sale entered during the POR, we preliminarily find that antidumping duties have been absorbed by MHI on its single U.S. sale. With respect to TKS, we preliminarily find that there is no duty absorption, as we have preliminarily determined that there is no dumping margin with respect to its U.S. sales.

Date of Sale

While the Department normally will use the date of invoice as the date of sale, we have determined in this case that the contract date better reflects the date on which the producer/exporter established the material terms of sale. Where the record demonstrates that the contract established the material terms of sale, we used the contract date as the date of sale for the transactions examined in this proceeding.

In the case of MHI's sale to the Washington Post, we used the April 26, 1996, revised contract date, rather than the May 16, 1995, date of the original contract, as the date of sale for currency conversion purposes. The Department has a longstanding practice which bases the date of sale on the date when all the essential terms (usually price and quantity) are firmly established and no longer within the control of the parties. *See, e.g., Final Determination of Sales at Less than Fair Value: Polyvinyl Alcohol from Taiwan,* 61 FR 14064, 14067 (March 29, 1996). Based on our analysis of the information submitted for the record, we have determined that the essential terms of the sale were not established until the April 1996 contract date. In particular, the April 1996 contract made the following significant changes from the May 1995 contract: (a) Revised the contract price, (b) substantially altered the payment schedule, and (c) revised other terms, such as service agreements, that affected the net price to the customer.

With regard to TKS, we used the contract date as the date of sale. We determined that the contract date is more appropriate than the invoice date in this instance because the contract date reflects the date when the essential terms of the sale were established.

Product Comparisons

Although the home market was viable for both respondents, in accordance with section 773 of the Act, we based normal value (NV) on constructed value (CV) because we determined that the unique, custom-built nature of each LNPP sold does not permit proper price-to-price comparisons. (*See* September 30, 1999, Memorandum to Louis Apple from The Team Re: *Determining the Appropriate Basis for Normal Value.*)

Normal Value Comparisons

To determine whether MHI's and TKS's sales of LNPPs to the United States were made at less than normal value, we compared constructed export price (CEP) to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice.

Constructed Export Price and Further Manufacturing

MHI

We calculated CEP, in accordance with sections 772(b) and (d) of the Act, for MHI's POR sale because MHI's affiliated U.S. sales agent engaged in a broad range of activities including coordination of installation, which we have classified as further manufacturing.

We calculated CEP based on the packed, installed price to an unaffiliated customer in the United States. We made deductions for the following charges: net trade-in allowance; foreign inland freight charges; foreign brokerage and handling charges; bonded warehouse expenses; international freight expenses; combined foreign inland, U.S. inland, and marine insurance expenses; Japanese export insurance and U.S. inland insurance expenses; combined U.S. brokerage and handling and inland freight charges; and U.S. Customs duty. We also made deductions for commissions, imputed credit, and direct training expenses.

We deducted those indirect selling expenses that related to economic activity in the United States, including indirect training expenses.

As in the less-than-fair-value (LTFV) investigation, we calculated an imputed credit expense by multiplying an interest rate by the net balance of production costs incurred and progress payments made during the construction period. MHI reported this expense using a Japanese yen-denominated, short-term interest rate for the portion of imputed credit expenses incurred prior to shipment. We recalculated MHI's reported imputed credit expense to reflect MHI's U.S.-dollar-denominated, short-term interest rate for the entire balance, consistent with our imputed credit expense methodology that relies on the interest rate applicable to the currency in which the sale is made. We also corrected the imputed credit expense calculation by converting the yen-denominated production costs into U.S. dollars based on the exchange rate in effect on the date of the MHI sale.

In addition, we deducted the cost of further manufacturing or assembly, including installation expenses. We classified installation charges as part of further manufacturing, because the U.S. installation process involves extensive technical activities on the part of engineers and installation supervisors. *See Mitsubishi Heavy Industries* v. *United States,* 15 F. Supp. 2d 807, 815–16 (CIT 1998) (*Mitsubishi*). As for the further manufacturing cost, we relied on MHI's reported amount with the exception that we recalculated the general and administrative (G&A) and interest expense rates based on the entire POR and not just part of the period as reported.

Further, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

TKS

We calculated CEP, in accordance with sections 772 (b) and (d) of the Act, for TKS's POR sale because this sale took place after importation by a seller affiliated with the producer/exporter and because the sale involved further manufacturing in the United States.

We calculated the CEP sale based on the packed price to an unaffiliated customer in the United States. We made deductions for the following charges: foreign inland freight to port in Japan; foreign brokerage and handling; international freight; combined marine and foreign insurance; U.S. brokerage and handling; U.S. Customs duty; unloading expenses; and cargo survey fees. We also deducted those selling expenses that related to economic activity in the United States [1].

We also deducted the cost of any further manufacturing or assembly, including testing and technical service expenses. We classified testing and technical service expenses as part of further manufacturing, because the U.S. installation process involves extensive technical activities on the part of engineers and installation supervisors (*see Mitsubishi*). In accordance with section 772(d)(3) of the Act, we made an adjustment for CEP profit.

Cost of Production Analysis

The Department disregarded certain sales made by MHI and TKS during the LTFV investigation pursuant to a finding that sales were made below cost. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that respondents MHI and TKS made sales in the home market at prices below the cost of producing the merchandise in the current review periods. As a result, the Department initiated investigations to determine whether the respondents made home market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

We compared the COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) Within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time.

The results of our cost tests for both MHI and TKS indicated that certain home market sales were at prices below COP, and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we therefore excluded the below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining selling expenses and profit.

Constructed Value

MHI

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, selling, general and administrative (SG&A) expenses and U.S. packing costs as reported in the U.S. sales database. In accordance with section 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

We relied on MHI's reported CV amounts with the following exception. We recalculated the G&A and interest expense rate, applied to the cost of manufacturing (COM) and included in the cost of production (COP) and CV, to include G&A and interest for all three years of production.

For selling expenses, we used the weighted-average home market selling and commission expense rate, calculated based on sales of the foreign like product made in the ordinary course of trade, and applied this rate to the U.S. COM. We excluded from this analysis a sale made to an affiliated party.

In accordance with section 773(a)(6)(A) of the Act, we added the U.S. packing costs to a CV net of packing.

TKS

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, SG&A and U.S. packing costs as reported in the U.S. sales database. In accordance with section 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

We relied on the reported CV amounts with the following exceptions. We recalculated the G&A rate applied to COM in the calculation of COP and CV to include additional operating income and expenses. We also recalculated the G&A and interest expense rate to include G&A and interest for all fiscal years of the production period.

For selling expenses, we used the weighted-average home market direct and indirect selling expense rates, calculated based on sales of the foreign like product made in the ordinary course of trade, and applied these rates to the U.S. COM.

In accordance with section 773(a)(6)(A) of the Act, we added U.S. packing costs to a CV net of packing.

[1] Since TKS's calculated imputed credit amount reflected revenue rather than an expense, we appropriately added to CEP the amount that related to the economic activity in the United States

Price-to-CV Comparisons

For CEP to CV comparisons, we deducted from CV the weighted-average home market direct selling expenses, including imputed credit, pursuant to section 773(a)(8) of the Act. We calculated imputed credit for CV purposes in accordance with the methodology explained in the ''Constructed Export Price'' section of this notice. We imputed credit expenses for CV using the weighted-average, yen-based, short-term interest rate reported for the POR, since home market sales were denominated in yen.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the export price (EP) or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV as is the case in these reviews, that of the sales from which we derive SG&A expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to an unaffiliated U.S. customer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer, after the deductions required under section 772(d) of the Act.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). The CEP offset is calculated as the lesser of the following:

1. The indirect selling expenses on the comparison market sale, or
2. The indirect selling expenses deducted from the starting price in calculating CEP.

In their respective questionnaire responses, MHI and TKS each reported two different LOTs—one for the U.S. market and another for the comparison market—and both reported that comparison-market sales are made at a more advanced LOT than U.S. sales. Both respondents requested that the Department perform a CEP offset in lieu of a LOT adjustment, as they were unable to quantify the price differences related to sales made at the different LOTs. To determine whether a CEP offset was warranted, we compared the distribution systems used by the respondents for their comparison market and U.S. sales, including selling functions and class of customer, for each claimed LOT, after making the appropriate deductions under section 772(d) of the Act. Both respondents reported that they sold through one channel of distribution in the comparison market, and through a different channel in the United States. In the comparison market, MHI and TKS sold subject merchandise directly to unaffiliated customers, while in the United States, they both sold the subject merchandise through their affiliates, MLP U.S.A., Inc. and TKS (U.S.A), respectively, who then sold the subject merchandise directly to unaffiliated purchasers. For MHI, we compared the selling functions and the level of activity in each distribution channel, and found that several of the functions performed in the comparison-market either were not performed in connection with the U.S. sale at the export LOT, or were performed at a significantly lower level of activity on the part of MHI. These selling functions include: pre-sale consultations, advertising, market research and identifying potential customers, arranging for transportation of merchandise, receipt of proposal requests, customer invoicing, payment collection, and post-sale services.

For TKS, we compared the selling functions and the level of activity in each distribution channel, and found that several of the functions performed in the comparison-market either were not performed in connection with the U.S. sale at the export LOT, or were performed only by the affiliated company, TKS (U.S.A.). These selling functions included: contract negotiations, plant layout and design, after-sale service, parts inventory maintenance, and operator training.

As we have determined that installation expenses incurred on the U.S. sales should be treated as further manufacturing expenses (rather than movement expenses, as claimed by MHI, or direct selling expenses, as claimed by TKS), the CEP after deduction for all expenses under section 772(d) of the Act reflects an uninstalled LNPP. Supporting this contention is the fact that many of the same selling functions that are performed at the comparison-market LOT are performed not at the export LOT, but by the respondents' U.S. affiliates. Based on this analysis, we conclude that the comparison-market and U.S. channels of distribution and the sales functions associated with each are sufficiently different so as to constitute two different levels of trade, and we find that the comparison-market sales are made at a more advanced LOT than are CEP sales. As there is no comparison-market LOT that is comparable to that in the United States, we have no basis for determining the extent to which the difference in LOTs affects price comparability. Therefore, we performed a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act by deducting the lesser of home market indirect selling expenses or the sum of the U.S. indirect selling expenses.

Currency Conversion

We made currency conversions, in accordance with section 773(A)(a) of the Act, based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Preliminary Results of Review

As a result of these reviews, we preliminarily determine that the weighted-average dumping margins for the respective PORs are as follows:

Manufacturer/exporter	Period	Margin
Mitsubishi Heavy Industries, Ltd	9/5/96–8/31/98	55.28
Tokyo Kikai Seisakusho	9/1/97–8/31/98	0.00

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. *See* 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the publication of this notice, or the first workday thereafter.

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. *See* 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of these administrative reviews, including the results of its analysis of issues raised in any written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews. The final results of these reviews shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by these reviews if any importer-specific assessment rate calculated in the final results of these reviews is above *de minimis.* For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total entered value of the sales examined.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those established in the final results of these reviews, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(d)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 58.69 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

These administrative reviews and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–26592 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839, A–583–833]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Vincent Kane (Republic of Korea) or Alysia Wilson (Taiwan), AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2815 or 482–0108, respectively.

Postponement of Preliminary Determinations

On April 29, 1999, the Department of Commerce (the Department) published its notice of initiation of antidumping investigations of certain polyester staple fiber from the Republic of Korea and Taiwan. *See Initiation of Antidumping Duty Investigations: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan,* 64 FR 23053. The initiation notice stated that we would issue our preliminary determinations by September 9, 1999. On August 25, 1999, at the request of E.I. DuPont de Nemours, Inc.; Arteva Specialities S.a.r.l., d/b/a KoSa; Wellman, Inc.; and Intercontinental Polymers, Inc. (hereinafter collectively referred to as ''the petitioners'') [1], the Department extended the preliminary determination until no later than September 29, 1999. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan,* 64 FR 47766 (September 1, 1999).

On September 29, 1999, pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended, the petitioners requested that the Department postpone the preliminary determinations in these investigations. Since the Department finds no compelling reason to deny the request, we are postponing the deadline for issuing these determinations until no later than October 4, 1999.

This extension and notice are in accordance with section 733(c) of the Act.

[1] E.I. DuPont de Nemours, Inc. is not a petitioner in the Taiwan case.

Dated: September 29, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–26586 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–804]

Silicon Metal From Argentina: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from the respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on silicon metal from Argentina. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period September 1, 1997 through August 31, 1998.

We have preliminarily determined that respondent has not made sales below normal value during the period of review. If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service not to assess antidumping duties on entries subject to this review.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Helen M. Kramer or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0405 or 482–3833, respectively.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Trade and Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act of 1994 (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR Part 351 (1998).

SUPPLEMENTARY INFORMATION:

Background

On September 26, 1991, the Department published an antidumping duty order on silicon metal from Argentina (56 FR 48779), which was amended on July 10, 1995, pursuant to court remand (60 FR 35551). The Department published a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order for the 1997/1998 review period on September 11, 1998 (63 FR 49543). On September 30, 1998, the respondent, Electrometalurgica Andina S.A.I.C. (''Andina'') filed a request for review. We published a notice of initiation of this review on October 29, 1998 (63 FR 58009).

Due to the complexity of issues involved in this case, the Department extended the time limit for completion of the preliminary results until September 30, 1999, in accordance with section 751(a)(3)(A) of the Act. See 64 FR 23056 (April 29, 1999). The deadline for the final results of this review will continue to be 120 days after the date of publication of this notice. The Department is conducting this review in accordance with section 751 of the Act.

Scope of the Review

The product covered by this review is silicon metal. During the less-than-fair-value (LTFV) investigation, silicon metal was described as containing at least 96.00 percent, but less than 99.99 percent, silicon by weight. In response to a request by the petitioners for clarification of the scope of the antidumping duty order on silicon metal from the People's Republic of China, the Department determined that material with a higher aluminum content containing between 89 and 96 percent silicon by weight is the same class or kind of merchandise as silicon metal described in the LTFV investigation. See Final Scope Rulings—Antidumping Duty Orders on Silicon Metal From the People's Republic of China, Brazil and Argentina (February 3, 1993). Therefore, such material is within the scope of the orders on silicon metal from the PRC, Brazil and Argentina. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) and is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this review. These HTS subheadings are provided for convenience and U.S. Customs purposes. Our written description of the scope of the proceeding is dispositive.

Verification

As provided in section 782(i)(3) of the Act, we verified sales and cost information provided by Andina at its headquarters in Buenos Aires and at its plant in San Juan, Argentina from May 17 through 28, 1999, using standard verification procedures, including inspection of the manufacturing facilities, examination of relevant sales and financial records, and selection of original documentation containing relevant information. As a result of our findings at verification, we adjusted the costs of wood chips and electricity. See ''Verification of Cost at Electrometalurgica Andina S.A.I.C., San Juan and Buenos Aires, Argentina, May 17–21, 1999,'' dated August 6, 1999, ''Verification of Sales at Electrometalurgica Andina S.A.I.C., San Juan and Buenos Aires, Argentina, May 24–28, 1999,'' dated August 6, 1999, and ''Analysis of Electrometalurgica Andina S.A.I.C. for the Preliminary Results of the Administrative Review of Silicon Metal from Argentina for the Period September 1, 1997 through August 31, 1998,'' dated September 10, 1999.

Cost of Production Analysis

Because all of Andina's sales in the home market during the last completed segment of the proceeding failed the cost test and, as such, were disregarded, we initiated a cost of production (''COP'') analysis in accordance with section 773(b) of the Act. We conducted the COP analysis as described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP based on the sum of the cost of materials, processing, depreciation, interest expenses, general and administrative expenses, and packing costs. We used the period January through September 1998, as there was no production of silicon metal during the POR until January, and in the normal course of business Andina accounts for costs on a quarterly basis ending in September. We revised the reported cost of the first stage of production by increasing the cost of wood chips purchased from an affiliated supplier to reflect more closely the affiliate's actual costs. We increased the cost of energy purchased during the months of August and September to include a price increase not reflected in respondent's accounts until the preparation of the audited financial statements. We corrected the reported financial expenses by deducting interest revenue received from customers. Pursuant to section 773(f)(1)(C)(ii) of the

Act and section 351.407(d) of the Department's regulations, we denied a claimed adjustment for startup costs, as we determined Andina's investment in the rebuilding of the furnace used for production of silicon metal did not meet the Department's criteria for a ''new production facility.'' Andina stated that the retooling of Furnace IV ''involved the replacement of the furnace lining, and the acquisition and installation of a new production technology.'' See supplemental response of March 2, 1999, page 7. Section 351.407(d)(1)(i) of the Department's regulations provides that ''new production facilities'' includes the substantially complete retooling of an existing plant. Substantially complete retooling involves the replacement of nearly all production machinery or the equivalent rebuilding of existing machinery. As verified by the Department during a plant visit, Andina relined an existing furnace in an existing production facility and installed new equipment to lower electrodes into the furnace. We regard this investment as essentially maintenance of an existing facility.

B. Test of Home Market Prices

We compared the revised weighted-average COP to home market sales of the foreign like product as required under section 773(b) of the Act. We regarded all sales of silicon metal as identical products. See section 771(16)(A) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. See sections 773(b)(2)(B)–(D) of the Act. We compared the COP to the home market prices, less any applicable movement charges and warehousing expenses. We found all home market sales were made at prices above the COP.

Fair Value Comparisons

To determine whether sales of the subject merchandise sold by Andina and exported to the United States were made at less than normal value (''NV''), we compared export price (''EP'') to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to monthly weighted-average NVs of the foreign like product. We considered the merchandise sold in the U.S. and home markets to be identical products.

Export Price

We based United States price on EP, as defined in section 772(a) of the Act, because Andina sold the merchandise to an unaffiliated company prior to importation and constructed export price was not otherwise indicated by the facts of record.

We calculated EP based on the packed, delivered, duty-unpaid price to an unaffiliated trading company in the United States. We made deductions pursuant to section 772(c)(2) of the Act for foreign inland freight, ocean freight, brokerage and handling, and increased the United States price by the amount of duty drawback in accordance with section 772(c)(1)(A) of the Act.

Normal Value (NV)

In order to determine whether sales of the foreign like product in the home market are a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of subject merchandise sold in the United States, in accordance with section 773(a)(1)(C) of the Act. Andina's aggregate volume of home market sales of the foreign like product was greater than five percent of its respective aggregate volume of U.S. sales of the subject merchandise. Therefore, we have based NV on home market sales.

Andina made sales exclusively to unaffiliated customers in the home market during the period of review. Therefore we did not perform the arm's length test. All of the home market sales were made at prices above the cost of production. Home market prices were based on the packed, ex-factory or delivered prices to customers. We made deductions to NV according to section 773(a)(6)(B) of the Act, where appropriate, for inland freight, warehousing expense, credit expenses, and packing. We also made a deduction from NV for the gross revenue tax imposed on home market sales revenue, but not on export sales pursuant to section 773(a)(6)(B)(iii) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or CEP transaction. In this case, the record shows that sales in both markets were made at the same LOT. Andina made sales directly to its customers in the United States and Argentina. There were no differences in the selling functions performed for distributors, end-users or trading companies in either market. Andina provided only packing and shipping services. No technical services or warranties were provided.

Preliminary Results of Review

We preliminarily determine that no margin exists for Andina for the period September 1, 1997 through August 31, 1998. Pursuant to section 351.224 of the Department's regulations, we will disclose the calculations performed to the parties to this proceeding within five days of the date of publication of this notice. An interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first business day thereafter. Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Interested parties may submit case briefs and rebuttal briefs not later than 30 days and 37 days, respectively, after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(1)(ii) and (d)(1).

Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099,within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Assessment Rates

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service upon the completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of silicon metal from Argentina entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Andina will be the rate established in the final results of administrative review, except if the rate is less than 0.5 percent, and therefore, de minimis within the meaning of 19 CFR 351.106, in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review, but covered in the original less than fair value (LTFV) investigation, the cash deposit rate will continue to be the rate published in the amended final determination; or (3) if the exporter is not a firm covered in this review or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 17.87 percent, the ''All Others'' rate made effective by the amended LTFV determination. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–26588 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–827]

Static Random Access Memory Semiconductors From Taiwan; Preliminary Results of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by GSI Technology, the Department of Commerce is conducting a new shipper review of the antidumping duty order on static random access memory semiconductors from Taiwan. The period of review is October 1, 1997, through September 30, 1998.

We have preliminarily determined that sales have been made below the normal value by GSI Technology. If these preliminary results are adopted in the final results of this review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Irina Itkin, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1776 or (202) 482–0656, respectively.

SUPPLEMENTARY INFORMATION: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce regulations are to 19 CFR Part 351 (1998).

Background

On October 15, 1998, GSI Technology requested that the Department of Commerce (the Department) conduct a new shipper review pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b). In this request, GSI Technology certified that it did not export the subject merchandise to the United States during the period covered by the original less-than-fair-value (LTFV) investigation (the ''POI''), and that it is not affiliated with any company which exported subject merchandise to the United States during the POI. Pursuant to 19 CFR 351.214(b)(2)(iv), GSI Technology submitted documentation establishing the date on which it first entered subject merchandise for consumption into the United States, the volume of that shipment, and the date of the first sale to an unaffiliated customer in the United States. Based on the above information, the Department initiated a new shipper review covering GSI Technology (*see Static Random Access Memory Semiconductors from Taiwan: Initiation of New Shipper Antidumping Duty Administrative Review,* 63 FR 67456 (Dec. 7, 1998)). The Department is now conducting this review in accordance with section 751 of the Act and 19 CFR 351.214.

On December 8, 1998, we issued our questionnaire to GSI Technology. We received a response to this questionnaire in January 1999.

In February and April 1999, we issued supplemental questionnaires to GSI Technology. We received responses to these questionnaires in March and May 1999, respectively.

On May 24, 1999, the Department published in the **Federal Register** a notice of postponement of the preliminary results until no later than October 4, 1999 (64 FR 27966).

In June 1999, we issued an additional supplemental questionnaire to GSI Technology. We received a response to this questionnaire in July 1999.

In July, August, and September 1999, the Department conducted verification of the data submitted by GSI Technology, in accordance with section 782(i) of the Act and 19 CFR 351.307(b)(1)(iv).

Also in September 1999, the Department requested that GSI Technology submit a revised cost database incorporating the verification findings.

Scope of the Review

The products covered by this review are synchronous, asynchronous, and specialty SRAMs from Taiwan, whether assembled or unassembled. Assembled SRAMs include all package types. Unassembled SRAMs include processed wafers or die, uncut die and cut die. Processed wafers produced in Taiwan, but packaged, or assembled into memory modules, in a third country, are included in the scope; processed wafers produced in a third country and assembled or packaged in Taiwan are not included in the scope.

The scope of this review includes modules containing SRAMs. Such modules include single in-line processing modules, single in-line memory modules, dual in-line memory modules, memory cards, or other collections of SRAMs, whether unmounted or mounted on a circuit

board. The scope of this review does not include SRAMs that are physically integrated with other components of a motherboard in such a manner as to constitute one inseparable amalgam (*i.e.,* SRAMs soldered onto motherboards).

The SRAMs within the scope of this review are currently classifiable under the subheadings 8542.13.8037 through 8542.13.8049, 8473.30.10 through 8473.30.90, and 8542.13.8005 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this review is dispositive.

Period of Review

The period of review (POR) is October 1, 1997, through September 30, 1998.

Use of Partial Facts Available

We determine that the use of partial facts available is appropriate for GSI Technology, in accordance with section 776(a) of the Act. At verification, we discovered that the respondent had mis-allocated certain rebates received from one of its subcontractors during the POR when calculating its difference-in-merchandise (difmer) and constructed value (CV) data. Because we find that this mistake caused a significant distortion in the reported costs, we determine that GSI Technology's cost data is unreliable for use in the preliminary results. Moreover, although the correct data exists on the record of this proceeding, we are unable to use this data at this time in our preliminary results due to the short time between the end of verification and the date of the preliminary results. However, we have requested that the respondent provide a new cost database which incorporates our verification findings, and we may consider this data for purposes of the final results.

Because we find that the respondent's cost data is unuseable in its current form, for purposes of the preliminary results we have, pursuant to section 776(a)(2)(B) of the Act, based the margin for all U.S. sales for which either a difmer adjustment or CV would be required on facts available. As facts available, we have used a non-aberrant margin calculated for identical price-to-price comparisons, in accordance with our practice. *See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8912 (Feb. 23, 1998).

Finally, we found at verification that GSI Technology failed to report certain U.S. sales during the POR. Accordingly, we have also based the margin for these sales on facts available. As facts available, we have used the same margin noted above.

Level of Trade and Constructed Export Price Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine normal value (NV) based on sales in the comparison market at the same level of trade as export price (EP) or constructed export price (CEP). The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For EP, the U.S. level of trade is also the level of the starting-price sale, which is usually from the exporter to the unaffiliated U.S. customer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (Nov. 19, 1997).

GSI Technology claimed that it made home market sales at two levels of trade, which it defined as follows: 1) original equipment manufacturers (OEMs) who purchased directly from GSI Technology; and 2) OEMs who purchased through the affiliated sales representative. We examined the selling activities at each reported marketing stage and found that there was no substantive difference in the selling functions performed at any of these stages. Consequently, we determine that only one level of trade exists with respect to sales made by GSI Technology to all home market customers. For a detailed explanation of this analysis, see the memorandum entitled ''Preliminary Results of Antidumping Duty New Shipper Review on Static Random Access Memory Semiconductors from Taiwan,'' dated October 4, 1999 (the ''concurrence memorandum'').

Because we have found that only one level of trade existed in the home market during the POR, we conducted an analysis to determine whether a CEP offset was warranted. In order to determine whether NV was established at a level of trade which constituted a more advanced stage of distribution than the level of trade of the CEP, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, which excludes economic activities occurring in the United States, pursuant to section 772(d) of the Act. We found that GSI Technology performed most of the selling functions and services related to U.S. sales at its sales offices in the United States, and, therefore, that these selling functions are associated with those expenses which we deduct from the CEP starting price, as specified in section 772(d) of the Act. Regarding home market sales, GSI Technology performed largely the same selling functions for these sales as were performed for U.S. sales. Therefore, its sales in Taiwan were at a more advanced stage of marketing and distribution (*i.e.,* more remote from the factory) than the constructed U.S. level of trade, which represents an ex-factory price after the deduction of expenses associated with U.S. selling activities. However, because GSI Technology sells at only one home market level of trade, the difference in the levels of trade cannot be quantified. Because the difference in the levels of trade cannot be quantified, but the home market is at a more advanced level of trade, we have granted a CEP offset to GSI Technology. For further discussion, see the concurrence memorandum noted above.

Comparisons to Normal Value

To determine whether sales of SRAMs from Taiwan were made in the United States at less than NV, we compared the CEP to NV. We were unable to make price-to-price comparisons involving non-identical products because GSI Technology did not provide useable difmer data. Moreover, we were unable to make price-to-CV comparisons because GSI Technology similarly did not provide usable CV data. Therefore, we based the margin for all U.S. sales with no corresponding identical home market match on facts available. As facts available, we used a non-aberrant

margin calculated for identical comparisons. *See* the ''Use of Partial Facts Available'' section of this notice for further discussion.

Constructed Export Price

In accordance with section 772(b) of the Act, we used CEP methodology because all sales took place after importation into the United States. We revised the reported data based on our findings at verification.

We based CEP on packed, delivered prices to the first unaffiliated customer in the United States. We made deductions from CEP for discounts, as appropriate. We also made deductions for foreign inland freight, international freight, U.S. customs duties and customs user fees, U.S. inland freight, and U.S. warehousing expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions from CEP, where appropriate, for credit expenses, advertising expenses, commissions, testing expenses, indirect selling expenses, inventory carrying costs, U.S. repacking expenses, and U.S. further manufacturing costs, in accordance with section 772(d) of the Act. Regarding credit expenses, we found that GSI Technology had not received payment for certain sales as of the date of verification. Consequently, we used the last day of GSI Technology's U.S. sales verification as the date of payment for any unpaid amount and recalculated credit expenses accordingly. Regarding testing expenses, we found that GSI Technology had not reported these expenses for certain products during the POR. Accordingly, we based the testing expenses for these products on facts available. As facts available, we used the highest testing expenses reported for any other product produced in the same quarter.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit, to arrive at CEP. As noted in the ''Use of Partial Facts Available'' section above, we have determined that GSI Technology's cost data is unusable at this time, based on our findings at verification. Consequently, we are unable to use this data for purposes of determining the CEP profit rate, in accordance with section 772(f) of the Act. Rather, as facts available, we have derived a CEP profit rate using the data shown on GSI Technology's consolidated financial statements for the fiscal year ended March 31, 1998.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of GSI Technology's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that GSI Technology had a viable home market during the POR. Consequently, we based NV on home market sales.

GSI Technology made sales of SRAMs to an affiliated party in the home market during the POR. However, because GSI Technology sold different models to affiliated and unaffiliated parties, we were unable to test these sales to ensure that, on average, they were made at ''arm's-length'' prices, in accordance with 19 CFR 351.403(c). (*See* letter from James Maeder to H.W. Chen, dated February 16, 1999.) Accordingly, we did not include in our analysis any sales made to the affiliated party because we were unable to determine that they were at ''arm's-length.'' Pursuant to 19 CFR 351.403(d), we based our analysis on the downstream sales of the affiliate to its unaffiliated customers.

For price-to-price comparisons, we based NV on ex-warehouse or delivered prices to home market customers. Where appropriate, we deducted home market movement charges, including foreign inland freight and off-site warehousing expenses, in accordance with section 773(a)(6)(B) of the Act. We also deducted home market credit expenses and testing expenses, pursuant to section 773(a)(6)(C)(iii) of the Act. We disallowed a claim made for foreign exchange losses associated with sales to the affiliated distributor. We also disallowed a claim made for home market customs fees because GSI Technology was unable to demonstrate at verification that these expenses related to home market sales. For further discussion, see the concurrence memorandum.

We deducted home market indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with section 773(a)(7)(B) of the Act. Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by any home market indirect selling expenses remaining after the deduction for the CEP offset, up to the amount of the U.S. commission.

Currency Conversion

Generally, we make currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. However, section 773A of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark for the daily rate, in accordance with established practice.

Preliminary Results of the Review

We preliminarily determine that the following margin exists for GSI Technology during the period October 1, 1997, through September 30, 1998:

Manufacturer/producer/exporter	Margin percentage
GSI Technology	18.71

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of publication. Any hearing, if requested, will be held two days after the date rebuttal briefs are filed. Interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. The Department will issue the final results of this new shipper review, including the results of its analysis of issues raised in any such written comments, within 90 days of the issuance of these preliminary results.

Upon completion of the new shipper review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of that importer's entries of

subject merchandise during the POR. Pursuant to 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent). The assessment rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all shipments of SRAMs from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this new shipper review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed company will be the rate established in the final results of this review; (2) for previously investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 41.75 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: October 4, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–26590 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100499E]

Atlantic Coastal Fisheries Cooperative Management Act; Meeting

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

ACTION: Coordination meeting.

SUMMARY: NMFS and the U.S. Fish and Wildlife Service (USFWS) will hold a joint meeting to discuss coordination of activities that support Atlantic States Marine Fisheries Commission coastal fisheries management plans under the Atlantic Coastal Fisheries Cooperative Management Act and the Atlantic Striped Bass Conservation Act.

DATES: The meeting will convene on Thursday, November 18, at 10:00 a.m. and will adjourn at approximately 3:00 p.m. The meeting is open to the public.

ADDRESSES: National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Anne Lange, Intergovernmental and Recreational Fisheries, NMFS, 8484 Georgia Avenue, Silver Spring, MD 20910. Telephone: (301) 427–2014.

SUPPLEMENTARY INFORMATION: NMFS-USFWS hold semi-annual coordination meetings established under a Memorandum of Understanding to develop and implement a program to support interstate fishery management efforts associated with the Atlantic Coastal Fisheries Cooperative Management Act (Pub. L. 103–206). The main agenda items for this meeting are discussion of the 1999–2000 Workplan; an update on implementation of the Atlantic Coast Cooperative Statistics Program; distribution of FY1999 Atlantic Coastal Act funds; and ASMFC Fishery Management Plan work for 1999.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Lange (see FOR FURTHER INFORMATION CONTACT) at least 7 days prior to the meeting date.

Dated: October 5, 1999.

Richard H. Schaefer,

Chief, Staff Office for Intergovernmental and Recreational Fisheries, National Marine Fisheries Service.

[FR Doc. 99–26548 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100599A]

Gulf of Mexico Fishery Management Council; Public Meetings.

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings of the Red Snapper Advisory Panel (AP), Reef Fish AP and Standing and Special Reef Fish Scientific and Statistical Committee (SSC).

DATES: The Red Snapper AP will meet on Monday, October 25, 1999, beginning at 8:00 a.m. and will conclude by 3:30 p.m.; the Reef Fish AP will meet on Tuesday, October 26, 1999, beginning at 8:00 a.m. and will conclude by 3:30 p.m; and the Standing and Special Reef Fish SSC will meet on Wednesday, October 27, 1999, at 9:00 a.m. until 5:00 p.m. and again on Thursday, October 28, 1999, from 8:00 a.m. until 10:00 a.m.

ADDRESSES: The meetings will all be held at the Tampa Airport Hilton Hotel, 2225 Lois Avenue, Tampa, Florida 33607; telephone (813) 877–6688.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida 33619; telephone (813) 228–2815.

SUPPLEMENTARY INFORMATION: The Red Snapper AP, consisting of recreational and commercial red snapper fishermen, seafood dealers, a Sea Grant extension agent, a representative of the coastal fishing community tourist industry, and a conservation group representative will review a red snapper stock assessment that has been prepared by NMFS and reports from the Council's Reef Fish Stock Assessment Panel and Socioeconomic Panel that include biological, social and economic information related to the range of acceptable biological catch (ABC). Based

on these reports, the AP may recommend levels of total allowable catch (TAC) for red snapper in 2000 and other appropriate management measures.

The Reef Fish AP, consisting of recreational reef fish fishermen, commercial reef fish fishermen, and seafood dealers will review a red grouper stock assessment that has been prepared by NMFS and reports from the Council's Reef Fish Stock Assessment Panel and Socioeconomic Panel that include biological, social and economic information related to the range of ABC. Based on these reports, the AP may recommend levels of TAC for red grouper in 2000 and other appropriate management measures.

The Standing SSC consists of economics biologists, sociologists, and natural resource attorneys; and the Special Reef Fish SSC consists of fishery biologists who specialize in reef fish biology. The joint SSC will review several reports containing scientific information about gag and gag fisheries that was recently presented to the Council by Dr. Chris Koenig of Florida State University and by Dr. Trevor Kenchington on behalf of the Southeastern Fisheries Association. Because some of the information in those reports is conflicting, the joint SSC is being asked to review and comment on them. The joint SSC will also review the red snapper and red grouper stock assessments and the Socioeconomic Panel report, comment on their scientific adequacy, and may make recommendations regarding red snapper and red grouper TAC and other management measures.

A copy of the agenda can be obtained by contacting the Gulf Council (see **ADDRESSES**). Although other non-emergency issues not on the agendas may come before the Red Snapper AP, Reef Fish AP, and Standing and Special Reef Fish SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the Red Snapper AP, Reef Fish AP, and Standing and Special Reef Fish SSC will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 18, 1999.

Dated: October 5, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–26547 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090299B]

Marine Mammals; File No. 684–1458–01

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. Donald B. Siniff, Department of Ecology, Evolution, and Behavior, University of Minnesota, College of Biological Sciences, 100 Ecology Building, 1987 Upper Buford Circle, St. Paul, MN 55108, has been issued an amendment to scientific research Permit No. 684–1458.

ADDRESSES: The amendment 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 FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On July 28, 1999, notice was published in the **Federal Register** (64 FR 40835) that an amendment of Permit No. 684–1458, issued August 7, 1998 (63 FR 43914), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The Permit, as amended, authorizes the Holder to capture and tag up to 400 female and 300 male, and tissue and blood sample 200 female and 180 pup Weddell seals (*Leptonychotes weddellii*) per season.

Dated: October 4, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–26544 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091399C]

Marine Mammals; Permit No. 941 (File No. P524A)

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Permit No. 941, issued to the University of Hawaii at Manoa, Hawaii Hall 105, Honolulu, Hawaii 96822, was amended.

ADDRESSES: See SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak or Trevor Spradlin, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of 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 provisions of the regulations governing endangered and threatened species (50 CFR parts 222–226).

Permit No. 941 authorizes the harassment of humpback whales (*Megaptera novaeangliae*) during the conduct of observational and photo-identification studies in Hawaii waters. This amendment authorizes the extension of the expiration date through April 30, 2000.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Addresses

The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Protected Resources Program Manager, Pacific Islands Area Office, NOAA, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2987).

Dated: October 4, 1999.

Ann Terbush,

Chief, Permits and Documentation Division, National Marine Fisheries Service.

[FR Doc. 99–26545 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091499D]

Marine Mammals; File No. 495–1524

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. John L. Bengtson, Polar Ecosystems Program Leader, National Marine Mammal Laboratory, Alaska Fisheries Science Center, NMFS, 7600 Sand Point Way, NE

Seattle, Washington 98115–0070, has been issued a permit to take Antarctic pack ice seals for purposes of scientific research.

ADDRESSES: The permit 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 FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On August 16, 1999, notice was published in the **Federal Register** (64 FR 44509) that a request for a scientific research permit to take Antarctic pack ice seals had been submitted by the above-named individual. The requested

permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: October 4, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–26546 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 21 October 1999 at 10 a.m. in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, NW, Washington, DC 20001. Items of discussion will include designs for projects affecting the appearance of Washington, D.C., including buildings and parks.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, D.C., October 1, 1999.

Charles H. Atherton,

Secretary.

[FR Doc. 99–26466 Filed 10–8–99; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Dominican Republic

October 5, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, 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 Categories 433 and 443 are being increased for carryforward.

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 63297, published on November 12, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 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 November 5, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on October 14, 1999, you are directed to increase the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
433	25,177 dozen.
443	146,785 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 99–26539 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Malaysia

October 5, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, 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 swing, special swing, special shift and carryforward.

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 59945, published on November 6, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 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 November 3, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the period beginning on January 1, 1999 and extending through December 31, 1999.

Effective on October 14, 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]
Sublevels within Fabric Group	
620	7,467,484 square meters.
Other Specific Limits	
331/631	2,677,757 dozen pairs.
341/641	1,395,068 dozen of which not more than 704,485 dozen shall be in Category 341.
350/650	140,610 dozen.
351/651	369,800 dozen.
638/639	610,687 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 99–26542 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Russia

October 5, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, 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 limit for Category 435 is being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 70110, published on December 18, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 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 14, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in Russia and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on October 14, 1999, you are directed to increase the current limit for Category 435 to 54,818 dozen,[1] as provided for under the terms of the current bilateral agreement between the Governments of the United States and the Russian Federation.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of 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. 99–26540 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of a Sublimit for Certain Cotton Textile Products Produced or Manufactured in Singapore

October 5, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

[1] The limit has not been adjusted to account for any imports exported after December 31, 1998.

ACTION: Issuing a directive to the Commissioner of Customs increasing a sublimit.

EFFECTIVE DATE: October 14, 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 this limit, 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 sublimit for Category 348 is being increased for carryforward. The limit for Categories 347/348 and the sublimit for Category 347 remain unchanged.

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 69056, published on December 15, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 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 8, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on October 14, 1999, you are directed to increase the sublimit for Category 348, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
347/348	1,298,573 dozen of which not more than 811,607 dozen shall be in Category 347 and not more than 631,251 dozen shall be in Category 348.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1998.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–26541 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

October 5, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 13, 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 swing, special shift and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 69057, published on December 15, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 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 8, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on October 13, 1999, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement:

Category	Adjusted twelve-month limit [1]
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [2], 359–H/659–H [3], 359–O [4], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [5], 659–O [6], 831–844, and 846–859, as a group.	723,610,966 square meters equivalent.
Sublevels in Group II	
239	6,059,965 kilograms.
331	492,840 dozen pairs.
336	146,479 dozen.
352/652	3,338,186 dozen.
359–H/659–H	5,108,564 kilograms.
433	15,057 dozen.
435	26,887 dozen.
436	5,303 dozen.
438	29,934 dozen.
443	46,997 numbers.
445/446	143,123 dozen.
631	5,355,128 dozen pairs.

Category	Adjusted twelve-month limit [1]
633/634/635	1,667,128 dozen of which not more than 978,503 dozen shall be in Categories 633/634 and not more than 867,079 dozen shall be in Category 635.
638/639	6,561,477 dozen.
642	924,634 dozen.
644	801,176 numbers.
659–S	1,729,838 kilograms.
Group II Subgroup 333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	77,515,713 square meters equivalent.
Within Group II Subgroup	
342	144,005 dozen.
351	397,346 dozen.
447/448	21,890 dozen.
636	390,169 dozen.
651	459,144 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[4] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[5] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 99–26543 Filed 10–8–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 12, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 6, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension

Title: Application for Waiver of the Two-Year Foreign Residence Requirement of the Exchange Visitor Program.

Frequency: On occasion.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 25.

Burden Hours: 500.

Abstract: The ED Exchange Visitor Waiver Review Board makes recommendations to the Justice Department through the U.S. Information Agency (USIA) for waiver of the two-year foreign residency requirement for exchange visitors who have been granted J–1 visas. This application will be used by educational or rehabilitative institutions or organizations that apply to the Department of Education to request a recommendation for a waiver on behalf of an exchange visitor. As a result of the regulation reinvention efforts, the Federal Regulations governing this process were eliminated October 1, 1996.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the Internet address *OCIO__IMG__Issues@ed.gov*, or should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at 202–708–9266 or by e-mail at joe__schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–26497 Filed 10–8–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Additional Public Hearing for Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, NV

AGENCY: Office of Civilian Radioactive Waste Management (OCRWM), Department of Energy (DOE).

ACTION: Notice of additional public hearing.

SUMMARY: On August 13, 1999, the U.S. Department of Energy (DOE) published a Notice of Availability (64 FR 44200) of its Draft Environmental Impact Statement (EIS) for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (DOE/EIS–0250–D) and announced a 180-day public comment period ending February 9, 2000. Subsequently, 16 public hearings were announced on September 9, 1999 (64 FR 48996). DOE is now announcing one additional public hearing. To schedule a time to provide oral comments during the hearings, please call 1–800–967–3477. Persons wishing to provide oral comments who have not registered in advance may register at the hearings.

DATES: The additional public hearing will be held on December 2, 1999, from 12:00 noon to 3:00 p.m. and from 6:00 p.m. to 10:00 p.m., in Carson City, Nevada.

ADDRESSES: The additional public hearing will be held at the following location: Carson City, Nevada—Nevada State Legislature, Room 4100, 401 South Carson Street, Carson City, Nevada 89701.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy R. Dixon, EIS Project Manager, M/S 010, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, P.O. Box 30307, North Las Vegas, NV 89036–0307, Telephone 1–800–967–3477, Facsimile 1–800–967–0739.

SUPPLEMENTARY INFORMATION: Public hearings have been scheduled for the following dates at the following locations:

1. September 27, 1999, 11:00 am—2:00 pm, 6:00 pm—10:00 pm, Amargosa Valley Community Center, 821 East Farm Road, Amargosa Valley, Nevada 89020
2. September 30, 1999, 11:00 am—2:00 pm, 6:00 pm—10:00 pm, Bob Ruud Community Center, 150 North Highway 160, Pahrump, Nevada 89048
3. October 4, 1999, 10:00 am—1:00 pm, 6:00 pm—10:00 pm, Goldfield Community Center, 403 Crook Street, Goldfield, Nevada 89013
4. October 5, 1999, 10:00 am—1:00 pm, 6:00 pm—10:00 pm, Boise Centre on the Grove, 850 West Front Street, Boise, Idaho 83702
5. October 19, 1999, 10:00 am—1:00 pm, 4:00 pm—8:00 pm, Bristlecone Convention Center, 150 Sixth Street, Ely, Nevada 89301
6. October 21, 1999, 12:00 pm—3:00 pm, 6:00 pm—10:00 pm, Georgia International Convention Center, 1902 Sullivan Road, College Park, Georgia 30337
7. October 26, 1999, 11:00 am—2:00 pm, 6:00 pm—10:00 pm, Hall of States, 444 North Capitol Street, N.W., Washington, DC 20001
8. November 4, 1999, 12:00 pm—3:00 pm, 7:00 pm—10:00 pm, Statham Hall, 138 North Jackson Street, Lone Pine, California 93545
9. November 9, 1999, 12:00 pm—3:00 pm, 6:00 pm—10:00 pm, Caliente Youth Center, U.S. Highway 93 North, Caliente, Nevada 89008
10. November 16, 1999, 11:00 am—2:00 pm, 6:00 pm—10:00 pm, Denver Convention Complex, 700 14th Street, Denver, Colorado 80202
11. December 1, 1999, 12:00 pm—3:00 pm, 6:00 pm—10:00 pm, Lawlor Events Center, 1664 North Virginia Street, Reno, Nevada 89557
12. December 2, 1999, 12:00 pm—3:00 pm, 6:00 pm—10:00 pm, Nevada State Legislature, Room 4100, 401 South Carson Street, Carson City, Nevada 89701
13. December 7, 1999, 11:00 am—2:00 pm, 5:30 pm—9:30 pm, Austin Town Hall, 137 Court Street, Austin, Nevada 89310
14. December 9, 1999, 10:00 am—1:00 pm, 6:00 pm—10:00 pm, Crescent Valley Town Hall, 5045 Tenabo Avenue, Crescent Valley, Nevada 89821
15. January 11, 2000, 11:00 am—2:00 pm, 6:00 pm—10:00 pm, Grant Sawyer State Building, 555 East Washington, Las Vegas, Nevada 89101
16. January 13, 2000, 10:00 am—1:00 pm, 6:00 pm—10:00 pm, Salt Lake City Hilton Inn, 150 West 500 South, Salt Lake City, Utah 84101
17. January 20, 2000, 11:00 am—2:00 pm, 6:00 pm—10:00 pm, America's Center, 701 Convention Plaza, St. Louis, Missouri 63101

Issued in Washington, DC, October 4, 1999.

Lake Barrett,

Acting Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 99–26552 Filed 10–8–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office; Notice of Availability of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE

ACTION: Notice of availability of solicitation Number DE–PS07–00ID13865—University Reactor Instrumentation (URI) Program.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, is soliciting applications for awards of financial assistance (*i.e.*, grants) that will support educational institutions in updating their nuclear reactors or related radiation laboratory equipment and instrumentation. The issuance date of Solicitation Number DE–PS07–00ID13865 is October 5, 1999. The solicitation is available in its full text via the Internet at the following URL address: *http://www.id.doe.gov/doeid/PSD/proc-div.html* under ''Current Solicitations and Sources Sought''. The deadline for receipt of applications is 63 days after the issuance date of the solicitation or by December 8, 1999.

ADDRESSES: Applications should be submitted to: Connie H. Osborne, Procurement Services Division, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, Idaho 83401–1563.

FOR FURTHER INFORMATION CONTACT: Connie Osborne, Contract Specialist at *osbornchl@id.doe.gov*.

SUPPLEMENTARY INFORMATION: The solicitation was issued pursuant to 10 CFR 600.6(b). Eligibility for awards under this University Reactor Instrumentation (URI) Program will be restricted to U.S. colleges and universities having a duly licensed, operating nuclear research or training reactor. The purpose of this program is to upgrade, purchase, or maintain equipment and instrumentation related to the performance, control, or operational capability of the reactor facility. The program will increase the quality and/or efficiency of the operation of the reactor facility and/or will improve or expand the research and training capabilities of the reactor facility.

Issued in Idaho Falls on September 30, 1999.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 99–26555 Filed 10–8–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Optional Prescreening Process for the Inventions and Innovation Program

AGENCY: Golden Field Office, Department of Energy (DOE).

ACTION: Optional pre-proposal process for potential applicants under the DOE Inventions and Innovation Program solicitation.

SUMMARY: The Office of Industrial Technologies of the Department of Energy is funding a competitive grant program entitled Inventions and Innovation (I&I). The goals of the I&I Program are to improve energy efficiency through the promotion of innovative ideas and inventions that have a significant potential energy impact and a potential future commercial market.

DATES: The abstract for the proposed project may be submitted to the Golden Field Office on or before March 17, 2000 for the May 2000 solicitation. Pre-proposal abstracts received between March 18, 2000 and July 31, 2000 (the open period of the solicitation) will not receive a response until after the solicitation closes on July 31, 2000. Pre-proposal dates for the Fiscal Year 2001 solicitation will be posted on the I&I website after July 31, 2000.

SUPPLEMENTARY INFORMATION:

Background Information

The Department of Energy (DOE), Office of Industrial Technologies' (OIT) Inventions and Innovation (I&I) Program funds up to $200,000 for promising projects demonstrating both energy-related innovation and future commercial market potential. The I&I Program emphasizes funding projects within the following OIT focus industries: Agriculture, Aluminum, Chemicals, Forest Products, Glass, Metalcasting, Mining, Petroleum, and Steel. Please see the OIT website at *www.oit.doe.gov* for additional details on these focus industries.

OIT is part of the Office of Energy Efficiency and Renewable Energy (EE/RE). While emphasis will be given to technologies within the OIT focus industries identified previously, projects that meet the missions and areas of concern of the other EE/RE sectors—transportation, buildings, and power will also be considered for award. Please refer to *www.eren.doe.gov* for additional information on the EE/RE sectors.

Pre-Proposal

An optional pre-proposal may be submitted to DOE through March 17, 2000 for the 2000 Solicitation. DOE will provide a timely response regarding the invention's program relevance. The pre-proposal must be typed, must not exceed two pages, and must adhere to the prescribed format. The submission of a pre-proposal abstract is not mandatory for submitting an application under the May 2000 solicitation. The abstract format will be available through the Inventions and Innovation site at the I&I website, http://www.oit.doe.gov/inventions or from the contacts listed below. If unable to access the internet, you may obtain a copy of the abstract format by calling Jennifer Palasz at (303) 275–4764, FAX (303) 275–4788.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy Golden Field Office, 1617 Cole Boulevard, Golden, Colorado 80401. Jennifer Palasz, at (303) 275–4764, by FAX at (303) 275–4788, or Internet at jennifer__palasz@nrel.gov. The Contract Specialist is Jim Damm, at (303) 275–4744 or Internet at jim__damm@nrel.gov. In addition, program information and the pre-proposal format can be located at the I&I website at http//www.oit.doe.gov/inventions.

Issued in Golden, Colorado, on October 1, 1999.

Matthew Barron,

Acting Procurement Director, GO.

[FR Doc. 99–26554 Filed 10–8–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Optional Pre-Proposal Process for the National Industrial Competitiveness Through Energy, Environment and Economics (NICE^3) Program

AGENCY: Golden Field Office, Department of Energy (DOE).

ACTION: Optional pre-proposal process for potential applicants under the DOE NICE^3 program solicitation.

SUMMARY: The Office of Industrial Technologies of the Department of Energy is funding a State Grant Program entitled National Industrial Competitiveness through Energy, Environment, and Economics (NICE^3). The goals of the NICE^3 Program are to improve energy efficiency, promote cleaner production, and to improve competitiveness in industry.

DATES: A pre-proposal abstract for the proposed project may be submitted to the Golden Field Office on or before March 17, 2000. Pre-proposal abstracts received between March 18, 2000 and July 31, 2000 (the open period of the solicitation) will not receive a response until after the solicitation closes on July 31, 2000.

SUPPLEMENTARY INFORMATION:

Background Information

The Department of Energy (DOE), Office of Industrial Technologies' (OIT) National Industrial Competitiveness Through Energy, Environment, and Economics (NICE^3) Program funds up to $525,000 (50% cost sharing is required) for the first commercial demonstration of innovative industrial technologies that reduce energy consumption, waste production, and operating costs. Applications must be submitted by an authorized state agency with an appropriate industrial partner. The NICE^3 Program emphasizes funding projects within the following OIT focus industries: Agriculture, Aluminum, Chemicals, Forest Products, Glass, Metalcasting, Mining, Petroleum, and Steel. Please see the OIT website at *www.oit.doe.gov* for additional details on these focus industries. OIT is part of the Office of Energy Efficiency and Renewable Energy (EE/RE), and consideration will also be given to projects that involve non-OIT focus industries and industrial processes in the other three EE/RE sectors (buildings, transportation, and power).

Pre-Proposal

An optional pre-proposal may be submitted to DOE's Golden Field Office through March 17, 2000 for the May 2000 solicitation. DOE will provide a timely response regarding the technology's program relevance. The pre-proposal must be typed, must not exceed two pages, and should utilize the prescribed format. The pre-proposal must be submitted through a state agency. The submission of a pre-proposal abstract is not mandatory for submitting an application under the May 2000 solicitation. A suggested abstract format will be available through the NICE^3 website, http://www.oit.doe.gov/nice3 or by the contacts listed below. The DOE reviews and comments under the pre-proposal process will not be used by DOE in

evaluating or awarding applications under the May 2000 solicitation.

FOR FURTHER INFORMATION CONTACT: Steve Blazek, at (303) 275–4723, at the U.S. Department of Energy Golden Field Office, 1617 Cole Boulevard, Golden, Colorado 80401, FAX (303) 275–4788. In addition, information on the NICE[3] program can be located at http// www.oit.doe.gov/nice3. The Contract Specialist is James Damm, at (303) 275–4744.

Issued in Golden, Colorado, on October 1, 1999.

Matthew Barron,

Acting Procurement Director, GO.

[FR Doc. 99–26553 Filed 10–8–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

DATES: Comments must be filed on or before November 12, 1999. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION: Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Miller may be telephoned at (202) 426–1103, FAX (202) 426–1081, or e-mail at herbert.miller@eia.doe.gov.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. EIA–176, 191, 191S, 857, 857S, and 895 ''Natural Gas Program Package'';

2. Energy Information Administration, OMB No. 1905–0175, Extension with changes, Mandatory for all forms except EIA–895 which is voluntary;

3. The Natural Gas Program Package forms collect basic and detailed natural gas production, processing, transmission, storage, consumption and price data. The data are published by the Energy Information Administration and are used by both public and private analysts.

4. Business or other for-profit; State, Local or Tribal Government;

5. 43,675 hours (5.35 hours average per response x 4.24 average responses per year x 1,924 respondents)

Statutory Authority: 44 U.S.C. 3506(a)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, October 4, 1999.

Lynda T. Carlson,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 99–26551 Filed 10–8–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–520–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 1999, CNG Transmission Corporation (CNG), filed as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

Fifty-first Revised Sheet No. 32

CNG requests an effective date of November 1, 1999 for its proposed tariff sheet.

CNG states that the purpose of this filing is to submit CNG's quarterly revision of the Section 18.2.B Surcharge, effective for the three-month period commencing November 1, 1999.

CNG states that the purpose of this filing is to submit CNG's quarterly revision of the Section 18.2.B Surcharge, effective for the three-month period commencing November 1, 1999. The charge for the quarter ending October 31, 1999 has been $0.224 per Dt., as authorized by Commission order dated July 23, 1999 in Docket No. RP99–364–000. CNG's proposed Section 18.2.B surcharge for the next quarterly period is $0.0190 per Dt. The revised surcharge is designed to recover $161,340 in Stranded Account No. 858 Costs, which CNG incurred for the period of June, 1999 through August, 1999. The instant docket incorporates the revised base rates filed by CNG today in another docket, which relates to the phased conversion of Rate Schedule GSS II and associated transportation entitlements.

CNG states that copies of this letter of transmittal and enclosures are being served upon CNG's 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. 99–26425 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–519–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 1999, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1999:

Twenty-Third Revised Sheet No. 31
Fiftieth Revised Sheet No. 32
Nineteenth Revised Sheet No. 34
Twenty-Second Revised Sheet No. 35
Eighth Revised Sheet No. 37

CNG states that the purpose of this filing is to comply with Article VII, Section G, of the August 31 1998, Stipulation and Agreement in Docket Nos. RP97–406, *et al.*, approved by the Commission in *CNG Transmission Corporation*, 85 FERC ¶ 61,261 (1998). That settlement provides for the phased conversion of firm storage services under Rate Schedule GSS–II, to corresponding services under Rate Schedule GSS and Rate Schedule FT (FT–GSS). Article VII, Section G permits CNG to implement base rate changes to reflect each phase of the conversion.

CNG states that copies of this filing are being served upon CNG's 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. 99–26446 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–22–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 1999, CNG Transmission Corporation (CNG) filed as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Twenty-Fourth Revised Sheet No. 31
Fifty-Second Revised Sheet No. 32
Twentieth Revised Sheet No. 34
Twenty-Third Revised Sheet No. 35

CNG requests an effective date of November 1, 1999, for its purposed tariff sheets.

CNG states that the purpose of this filing is to update CNG's effective Transportation Cost Rate Adjustment (TCRA), through the annual adjustment mechanism described in Section 15 of the General Terms and Conditions of CNG's Tariff (GT&C). CNG's surcharge incorporates the balance in its Unrecovered Fuel Cost Reimbursement Subaccount, as set forth in GT&C Section 16.5, as well as the balance in its Unrecovered EPC Reimbursement Subaccount, pursuant to GT&C Section 17.5.

CNG seeks waiver of GT&C Section 16.5 to reflect products extraction fuel and shrinkage under-recoveries in the reservation component of its surcharge rates.

CNG states that copies of its letter of transmittal and enclosures are being 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, 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 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. 99–26451 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–5–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

October 5, 1999.

Take notice that on October 1, 1999, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, tariff sheets listed in Appendix A to the filing, to be effective November 1, 1999.

CIG states it is making this filing to replace Spot Index Price with Cash Out Index Price to be used for the following:

1. The imbalance cash-out provisions,
2. The penalty imposed on a park-loan shipper pursuant to Rate Schedule PAL–1 that fails to return loaned gas by the deadline imposed by CIG (currently 150% of the Spot Index Price),
3. The penalty imposed on a swing service operator pursuant to Rate Schedule SS–1 (currently 150% of the Spot Index Price), and
4. Calculating the fuel quantity attributable to revenue from gas processing.

Use of the Spot Index Price as a basis for calculation of unauthorized overrun fees is unaffected by this filing.

CIG avers that currently it calculates the Spot Index Price based on published first-of-the-month index prices. CIG is proposing to add a new term to be called the Cash Out Index Price, to be calculated using an average of the daily mid-point index prices for the pertinent production month. CIG states that an average daily index price is more representative than a first of the month

index price regarding the actual cost of gas during a production month.

CIG further states that an average daily index price is superior to a first of the month index in deterring gaming by shippers, such as when a shipper decides to deliberately (1) Incur or not clear imbalances, (2) Not return loaned quantities to park-loan service, or (3) Not return excess deliveries in its swing service account. CIG states a first of the month index invites gaming because this type of index price allows a shipper to readily determine when there is an economic advantage to engage in gaming.

CIG states that copies of the filing have been mailed to all affected customers and state regulatory 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, NE, 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. 99–26430 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–9–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Columbia Gas Transmission Corporation (Columbia) filed as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised sheets, bearing a proposed effective date of November 1, 1999.

Thirty-eight Revised Sheet No. 25
Thirty-eight Revised Sheet No. 26
Thirty-eight Revised Sheet No. 27
Seventeenth Revised Sheet No. 30A

Columbia states that this filing is being submitted pursuant to Stipulation I, Article I, Section E, True-up Mechanism, of the Settlement (Settlement) in Docket No. RP95–408 et al., approved by the Commission on April 17, 1997 (79 FERC ¶ 61,044 (1997)). Pursuant to the true-up provision, Columbia is required to true-up its collections from the Settlement Component for 12-month periods commencing November 1, 1996. In accordance with the Settlement, the true-up component of the Settlement Component is to be removed effective November 1, of each year. The instant filing is being made to remove such true-up component from the currently effective Settlement Component effective November 1, 1999.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected 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. 99–26434 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–10–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Columbia Gas Transmission Corporation (Columbia), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of November 1, 1999:

Thirty-ninth Revised Sheet No. 25
Thirty-ninth Revised Sheet No. 26
Thirty-ninth Revised Sheet No. 27
Thirty-Sixth Revised Sheet No. 28

Columbia states that it is tendering this periodic filing in accordance with Section 36.2 of the General Terms and Conditions (GTC) of its Tariff. GTC Section 36, Transportation Costs Rate Adjustment (TCRA), enables Columbia to adjust its current TCRA rate prospectively on a periodic and annual basis to take into account prospective changes in Account No. 858 costs. In this filing Columbia proposes to adjust its Current Operational TCRA Rate as defined in GTC Section 36.4.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected 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 file 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. 99–26435 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–2–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

October 5, 1999.

Take notice that on October 1, 1999, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–1046, filed a request with the Commission in Docket No. CP00–002–000 pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon one point of delivery to Columbia Gas of Pennsylvania, Inc. (CPA), consisting of 0.03 mile of 4– and 6-inch pipeline, authorized in blanket certificate issued in Docket No. CP83–76–000, all as more fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Columbia proposes to abandon its Wampum East Measuring and Regulating Station, of its Line 1646, which is approximately .04 mile from Columbia's Mike Papa Measuring and Regulating Station. Both stations are located in Lawrence County, Pennsylvania and both stations provide service to CPA. Columbia requests authorization to install a new meter and filter separator at the Mike Papa Measuring Station and all above ground facilities associated with the Wampum East point of delivery be abandon by removal. Columbia states that service to CPA would be singularly provided through the Mike Papa point of delivery.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26438 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–6–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No.1, the tariff sheets listed below to become effective October 4, 1999. The modifications to the listed tariff sheets are proposed to provide revisions reflecting contracts that have been assigned.

First Revised Volume No. 1
First Revised Volume No. 9
First Revised Volume No. 10

DIGP states that a copy of this filing has been served on all parties on the service list.

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 in accordance with section 154.210 of the Commission's Regulations. Protest 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. 99–26431 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–1–000]

East Tennessee Natural Gas Company; Notice of Transportation Cost Rate Adjustment Filing

October 5, 1999.

Take notice that on October 1, 1999, East Tennessee Natural Gas Company (East Tennessee), filed its Annual Transportation Cost Rate Adjustment filing.

East Tennessee states that because it has not incurred any demand or commodity Account 858 costs since its last Transportation Cost Rate Adjustment Filing, for the period December 1, 1999 through November 30, 2000, East Tennessee will continue to reflect a demand and commodity surcharge of $0.0 to the FT–A and FT–GS rates as shown on its currently effective Fourteenth Revised Sheet No. 4.

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 October 12, 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. 99–26426 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–32–006]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 1999, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of November 1, 1999:

Second Revised Sheet No. 4
Second Revised Volume No. 6

Eastern Shore states that the filing of these tariff sheets is in accordance with the Stipulation and Agreement (S&A) approved by the Commission on October 15, 1997, (81 FERC ¶ 61,013, 1997) in the above-referenced docket.

Eastern Shore states that pursuant to Article IV.B.5 of the above-referenced S&A, its Rate Schedule T–1 restructured settlement rates include a reservation rate adjustment (T–1 Reservation Rate Adjustment) of ($1.2167) per dekatherm (dt) for a period of two years which commenced on the effective date of Eastern Shore's restructuring (i.e. November 1, 1997). Such adjustment was necessary in order to reflect only 50 percent of the total non-mileage costs included in Eastern Shore's settlement cost of service in the T–1 settlement rates. Non-mileage costs are defined as those costs included in Eastern Shore's Account Nos. 850, 861 and 902 through 935, respectively. At the end of the initial two-year period the T–1 Reservation Rate Adjustment terminates and the T–1 restructured settlement reservation rate increases to $7.0567 per dt to reflect fully 100 percent of the total non-mileage costs included in Eastern Shore's settlement cost of service.

Eastern Shore also states that as detailed in Article IV.B.6 of the S&A, the difference between the annual revenues produced under the Rate Schedule T–1 settlement rates reflecting 50 percent of the total non-mileage costs and the annual revenues produced under the T–1 settlement rates reflecting 100 percent of the total non-mileage cost, is $151,494. Such difference was allocated to Rate Zone One firm transportation customers under Rate Schedules FT and ST on a pro rata basis through the implementation of an off-setting reservation rate adjustment (Rate Zone One Reservation Rate Adjustment) of $1.6912 per dt for the initial two year period the S&A was in effect. Pursuant to Article IV.B.7, upon the expiration of the initial two-year period the Rate Zone One Reservation Rate Adjustment is eliminated and the Rate Schedule FT and ST reservation rates decrease to $8.9501 per dt effective November 1, 1999.

Eastern Shore states that copies of its filing are available for public inspection at 417 Bank Lane, Dover, Delaware and a copy has been mailed to affected customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided in section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 99–26441 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–515–000]

Florida Gas Transmission Company; Notice of Tariff Filing

October 5, 1999.

Take notice that on September 30, 1999, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective November 1, 1999:

Seventh Revised Sheet No. 117
First Revised Sheet No. 117.01
Seventh Revised Sheet No. 117A

FGT states that in the instant filing, FGT is proposing revisions to section 10.A.2 of its General Terms and Conditions (GTC), Nomination Timeline, to change its Intraday nomination procedures and to make minor changes in the organization of this Tariff section. Specifically, FGT is proposing revisions to Seventh Revised Sheet No. 117A to change its Intraday nomination procedures to provide that Intraday nominations that contain a date range of more than one day shall be effective only for the next applicable nomination cycle.

FGT states that FGT's current Intraday nomination procedures provide that Intraday nominations which contain a date range of more than one day will be processed as an Intraday nomination for the first day of the specified effective period, and the nomination for the remainder of the date range is processed as a Timely nomination. FGT implemented these procedures in compliance with Order No. 587–H (issued in Docket No. RM96–1–008 on July 15, 1998), in which the Commission adopted the implementation standards promulgated by the Gas Industry Standards Board (''GISB'') related to the intraday nomination and scheduling procedures and time line (''GISB Intraday Standards''). Under the GISB Intraday Standards, pipelines were not required to make Intraday nominations applicable to date ranges of more than one day. Accordingly, most pipelines did not provide this option and standard industry practice is that Intraday nominations are effective only for the nomination cycle.

FGT states that in implementing the GISB Intraday Standards, FGT continued to provide shippers the option of submitting Intraday nominations containing a date range of more than one day. In doing so, FGT did not anticipate that this flexibility would be confusing to FGT's shippers and administratively infeasible to FGT. FGT's shippers are confused because, under FGT's current Intraday 2 procedures, a shipper sending an Intrady 2 nomination with a date range of more than one day is treated as also submitting an Evening Cycle Intraday nomination for the next day in the rate range. It has been FGT's experience that shippers, often unaware that they are affecting their timely nomination for the following gas day, are confused when they receive their scheduled quantities for the next gas day which have been changed.

Additionally, FGT states that FGT cannot send a Quick Response for the changes to subsequent nomination cycles because a Quick Response can only be sent once for any nomination received. In order for FGT to alert shippers that they are changing their nomination for the following gas day, FGT would have to send an unsolicited Quick Response, which is not currently possible.

FGT states that the revisions proposed herein will make FGT's Intraday nomination procedures conform with what has become standard industry practice. FGT believes that the proposed changes will alleviate confusion regarding FGT's Intraday nomination procedures, while not negatively impacting shippers' ability to change nominated quantities on FGT's system.

Any person desiring to be heard or to protest and 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 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/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26442 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–3–000]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective November 1, 1999.

First Revised Sheet No. 23,
Original Sheet No. 23A
Original Sheet No. 23B

GBGP states that the purpose of this filing is to clarify the tariff language regarding the operation of the Revenue Bank under Section 5.2 of Rate Schedule FT–2 all as more fully set forth in the application.

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 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. 99–26428 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–4–000]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Garden Banks Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective November 1, 1999:

First Revised Sheet No. 132
First Revised Sheet No. 304
First Revised Sheet No. 305
Second Revised Sheet No. 306
First Revised Sheet No. 307
First Revised Sheet No. 308

GBGP states that the purpose of this filing is to remove the tariff language regarding the existing Form of Natural Gas Liquids Bank (NGL Bank) Agreement and implement an alternative NGI Bank structure whereby GBGP's shippers will contract with a thirty party administrator of the NGL Bank, all as more fully set forth in the application. GBGP will not be a party to the new NGL Bank agreement. Therefore, the existing Form of NGL Bank Agreement is being removed from GBGP's tariff structure by this filing.

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 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. 99–16429 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–110–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes In FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 1999, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Twenty-Fourth Revised Sheet No. 4. The proposed effective date of this revised tariff sheet is November 1, 1999.

Iroquois states that pursuant to Part 154 of the Commission's regulations and Section 12.3 of the General Terms and Conditions of its tariff, it is filing Twenty-Fourth Revised Sheet No. 4 and supporting workpapers as part of its annual update of its Deferred Asset Surcharge to reflect the annual revenue requirement associated with its Deferred Asset for the amortization period commencing November 1, 1999. Iroquois states that the revised tariff sheet reflects a decrease of $.0001 per Dth in Iroquois effective Deferred Asset Surcharge for Zone 1 of $.0001 per Dth (from $.0008 to $.0007 per Dth), a decrease of 4.0001 per Dth in Iroquois effective Deferred Asset Surcharge for Zone 2 of $.0001 per Dth (from $.0006 to $.0005 per Dth) and a decrease in the Inter-Zone surcharge of $.0002 per Dth (from $.0014 to $.0012 per Dth).

Iroquois states that copies of its filing were served on all jurisdictional

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. 99–26456 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–2–110–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 1999, Iroquois Gas Transmission System, L.P., (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, with an effective date of November 1, 1999:

Twenty-fifth Revised Sheet No. 4

Iroquois states that it is filing Twenty-fifth Revised Sheet No. 4 and supporting workpaper as part of its annual Transportation Cost Rate Adjustment filing to reflect changes in Account No. 858 costs for the twelve month period commencing November 1, 1999. According to Iroquois, the revised tariff sheet reflects reduced rates which will be charged by Tennessee Gas Pipeline Company commencing November 1, 1999.

Iroquois states that copies of its filing were served on all jurisdictional 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. 99–26457 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–4519–000]

MidAmerican Energy Company; Notice of Filing

September 30, 1999.

Take notice that on September 24, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50303 tendered for filing a proposed rate schedule change to its Open Access Transmission Tariff (OATT). The change consists of the proposed addition of Schedule 4A—Illinois Retail Energy Imbalance Service and is filed pursuant to an order of the Illinois Commerce Commission (Illinois Commission).

MidAmerican proposes that the rate schedule change become effective on October 1, 1999. Accordingly, MidAmerican has requested a waiver of the 60-day notice provisions of the Federal Power Act.

A copy of the proposed rate schedule change has been mailed to all Transmission Customers having service agreements under the OATT, the Iowa Utilities Board, the Illinois Commission, the South Dakota Public Service Commission and all parties to Illinois Commission Docket Nos. 99–0122/99–0130.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 14, 1999. Protests will be considered by the Commission to determine 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26447 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–25–000]

Mississippi River Transmission Corporation; Notice of Tariff Filing

October 5, 1999.

Take notice that on October 1, 1999, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed below to the effective November 1, 1999.

Thirty Fourth Revised Sheet No. 5
Thirty Fourth Revised Sheet No. 6
Thirty First Revised Sheet No. 7
Eleventh Revised Sheet No. 8

MRT states that the purpose of this filing is to adjust the Fuel Use and Loss Percentages under its Rate Schedules FTS, SCT, ITS, FSS and ISS pursuant to Section 22 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

MRT states that a copy of this filing is being mailed to each of MRT's customers and to the state commissions of Arkansas, Illinois, and Missouri.

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 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. 99–26452 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–16–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 1999, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Eleventh Revised Sheet No. 8, to become effective November 1, 1999.

National states that this filing reflects an adjustment to the reservation component of the EFT rate pursuant to the Transportation and Storage Cost Adjustment (TSCA) provision set forth in Section 23 of the General Terms and Conditions of National's FERC Gas Tariff.

National further states that copies of this compliance filing were served upon the Company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

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 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. 99–26450 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–2–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

October 5, 1999.

Take notice that on September 30, 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 October 1, 1999.

Eighteenth 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 Nos. 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 8.83 cents per dth.

Further, National states that under Article II, Section 2, of the settlement, it is required to recalculate the maximum Interruptible Gathering (''IG'') rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG rate of 12 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, 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. 99–26458 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–631–000]

Northern Natural Gas Company; Notice of Application

October 5, 1999.

Take notice that on September 30, 1999, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska 68103–0330, filed in Docket No. CP99–631–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon services under individually certificated agreements, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Nothern proposes to abandon service under Rate Schedules ES–1 to Southern Union Gas Company (Southern Union), T–31 to Shell Oil Company, X–62 to the City of Iraan, X–89 to West Texas Gas, Inc., and X–112 to Southern Union, contained in its respective FERC Gas Tariff, Original Volume No. 2. Northern states that it is not currently providing any service under these agreements and does not propose to abandon any facilities pursuant to the instant application.

Any person desiring to be heard or to make any protest with reference to said Application should on or before October 21, 1999, file with the Federal Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 18 CFR 385.215) and the Regulations under the Natural Gas Act (18 CFR 157.10). All

protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this Application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission, on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–26437 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–010]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 1999, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, proposed to become effective on October 1, 1999.

Fourth Revised Sheet No. 66

Northern states that the above sheet is being filed to implement a specific negotiated rate transaction in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-to-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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. 99–26440 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–2–000]

Overthrust Pipeline Company; Notice of Tariff Filing

October 5, 1999.

Take notice that on October 1, 1999, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1 and First Revised Volume No. 1–A, to be effective November 1, 1999.

Overthrust states that this filing is a general rate case under Section 4(e) of the Natural Gas Act and is filed in compliance with the April 1, 1998, order in Docket No. RP97–301. The April 1, 1998, order required Overthrust to file a general rate case under Section 4(e) of the Natural Gas Act by October 1, 1999. Overthrust tendered for filing and acceptance the following tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Eighteenth Revised Sheet No. 6

First Revised Volume No. 1–A

Third Revised Sheet No. 4
Sixth Revised Sheet No. 70

Overthrust states that the rates it has proposed are based on the overall cost of service for the base period consisting of the twelve months ended June 30, 1999, adjusted for known and measurable changes through March 31, 2000, which justifies an increase in Overthrust's jurisdictional transportation revenues of approximately $1.0 million over Overthrust's currently effective rates approved by Commission order dated April 1, 1998, in Docket No. RP97–301.

Overthrust states that the increase in jurisdictional rates reflected in its filing is necessary to permit Overthrust the opportunity to recover its revenue requirements. Overthrust requests an effective date of November 1, 1999, for the tendered tariff sheets.

Overthrust further states that a copy of this filing has been served upon Overthrust's jurisdictional customers, the Wyoming Public Service Commission, and the Utah Division of Public Utilities.

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. 99–26427 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–28–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective November 1, 1999.

Panhandle states that this filing is made in accordance with Section 24

(Fuel Reimbursement Adjustment) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets filed herewith reflect the following changes to Fuel Reimbursement Percentages:

(1) a (0.49%) decrease in the Gathering Fuel Reimbursement Percentage;

(2) a (0.48%) decrease in the Field Zone Fuel Reimbursement Percentage;

(3) No change in the Market Zone Fuel Reimbursement Percentage;

(4) a (0.15%) decrease in the Injection and a (0.15%) decrease in the Withdrawal Field Area Storage Reimbursement Percentages; and

(5) a (0.15%) decrease in the Injection and a (0.15%) decrease Withdrawal Market Area Storage Reimbursement Percentages.

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 protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protest 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. 99–26453 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing

October 5, 1999.

Take notice that on September 30, 1999, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following sheets:

Original Sheet No. 16C
Second Revised Sheet No. 32A
Fifth Revised Sheet No. 33
Fifth Revised Sheet No. 38
Original Sheet No. 38A
Third Revised Sheet No. 41
Original Sheet No. 41A
Twelfth Revised Sheet No. 51
Second Revised Sheet No. 54B
Original Sheet No, 54C
Fifth Revised Sheet No. 68
Original Sheet No. 68A
First Revised Sheet No. 81.01a
Fourth Revised Sheet No. 109
Fifth Revised Sheet No. 110
Fourth Revised Sheet No. 127
Third Revised Sheet No. 128
Second Revised Sheet No. 130
Third Revised Sheet No. 131
Second Revised Sheet No. 155
Third Revised Sheet No. 170
Second Revised Sheet No. 176
First Revised Sheet No. 182

PG&E GT–NW requests that the above-referenced tariff sheets become effective October 30, 1999.

PG&E GT–NW asserts that the purpose of this filing is to provide a mechanism for PG&E GT–NW to offer open access service at negotiated rates or under a negotiated rate formula.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers and interested 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, 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 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. 99–26445 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–8–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No.1 , the following tariff sheet to become effective November 1, 1999:

Original Sheet No. 349A

REGT states that this tariff sheet would provide for generic types of discounts that may be agreed to by REGT and a shipper.

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 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. 99–26433 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–517–000]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

October 5, 1999.

Take notice that on September 30, 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 October 1, 1999:

Tariff Sheets Applicable to Contesting Parties:
- First Revised Forty Eighth Revised Sheet No. 14
- First Revised Sixty Ninth Revised Sheet No. 15
- First Revised Forty Eighth Revised Sheet No. 16
- First Revised Sixty Ninth Revised Sheet No. 17

Tariff Sheets Applicable to Settling Parties:
- First Revised Thirty Fourth Revised Sheet No. 14a
- First Revised Fortieth Revised Sheet No. 15a
- First Revised Thirty Fourth Revised Sheet No. 16a
- First Revised Fortieth 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 an increase in the FERC interest rate effective October 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 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 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. 99–26444 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–106–000]

Southwest Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets proposed to become effective November 1, 1999:

Second Revised Sheet No. 4–A
Second Revised Sheet No. 4–B

Southwest states that this filing is made in accordance with Section 6.14 (Fuel Reimbursement Adjustment) of Rate Schedules FSS and ISS in Southwest's FERC Gas Tariff, Original Volume No. 1. The Fuel Reimbursement Adjustment filed herewith reflects the following Fuel Reimbursement Percentages: (1) West Area Storage Facilities Injection 1.36% and Withdrawal 0.59%; and (2) East Area Storage Facilities Injection 2.27% and Withdrawal 1.07%.

Southwest 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, 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 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. 99–26455 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP000–7–000]

Texas Eastern Transmission Corporation; Notice of Limited Section 4 Compliance Filing

October 5, 1999.

Take notice that on October 1, 1999, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, the tariff sheets listed in Appendix A to the filing, with a proposed effective date of November 1, 1999, or such later date as the authorized facilities are placed in service.

Texas Eastern states that the filing is submitted pursuant to the Commission's Order Denying Rehearing and Granting Clarification issued on June 2, 1999 (June 2 Order) in Docket No. CP97–774–002 [87 FERC ¶ 61,273 (1999)] and as a limited application pursuant to section 4 of the Natural Gas Act, 15 U.S.C. section 717c (1988), and the Rules and Regulations of the Commission promulgated thereunder.

Texas Eastern states that the purpose of the filing is to make a limited section 4 filing to reduce the storage cost credit mechanism currently included in Rate Schedules SS, SS–1 and X–28. In addition, Texas Eastern states that the filing includes revised Operational Flow Order (OFO) language to adjust the triggers to certain of its OFOs.

Texas Eastern states that copies of the filing were mailed to all affected 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, 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 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. 99–26432 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RS92–11–027]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

October 5, 1999.

Take notice that on September 30, 1999, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing the following ''pro forma'' tariff sheet and an explanatory statement constituting a proposal for a curtailment compensation provision to be included in Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1:

Pro Forma Sheet No. 495

Texas Eastern states that it is not advocating adoption of this proposal as its primary position, rather the sole purpose of this filing is to comply with the Commission's Order on Remand, issued July 16, 1999, in Docket No. RS92–11–024 [88 FERC 61,082 (1999)].

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 99–26449 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–11–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet proposed to become effective on November 1, 1999:

Tenth Revised Sheet No. 5B.02

Transwestern states that the purpose of this filing is to set forth the factors and calculations used in determining the adjustments to the SBRs and to revise the SBRs to be effective November 1, 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. 99–26436 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–12–000]

Transwestern Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff Second Revised Volume No. 1, the following tariff sheet to be effective November 1, 1999:

Seventh Revised Sheet No. 5B.03

Transwestern states that the filing is being made to set forth the new TCR II Reservation Surcharges that Transwestern proposes to put into effect on November 1, 1999.

Transwestern states that copies of the filing were served upon Transwestern's 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. 99–26448 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–30–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1999.

Take notice that on October 1, 1999, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective November 1, 1999:

Thirty-First Revised Sheet No. 6
Thirtieth Revised Sheet No. 7
Thirty-First Revised Sheet No. 8
Thirty-First Revised Sheet No. 9
Thirteenth Revised Sheet No. 9A
Third Revised Sheet No. 9B
Thirtieth Revised Sheet No. 10

Sixteenth Revised Sheet No. 10A

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment of Trunkline's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets listed on Appendix A to the filing, reflect: a 0.46% increase (Field Zone to Zone 2), a 0.46% increase (Zone 1A to Zone 2), a 0.28% increase (Zone 1B to Zone 2), a 0.13% increase (Zone 2 only), a 0.52% increase (Field Zone to Zone 1B), a 0.52% increase (Zone 1A to Zone 1B), a 0.34% increase (Zone 1B only), a 0.37% increase (Field Zone to Zone 1A), a 0.37% increase (Zone 1A only) and a 0.19% increase (Field Zone only) to the currently effective fuel reimbursement percentages.

Trunkline states that copies of this filing are being served on all affected shippers and interested 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 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 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. 99–26454 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–516–00]

Williston Basin Interstate Pipeline Company; Notice of Annual Report

October 5, 1999.

Take notice that on September 30, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Sixth Revised Sheet No. 358A. The proposed effective date of the above-referenced tariff sheet is September 30, 1999.

Williston Basin states that as a July 31, 1999 it had a zero balance in FERC Account No. 191. As a result, Williston Basin will neither refund nor bill its former sales customers for any amount under the conditions of Section No. 39.3.1 of its FERC Gas 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, 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 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 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. 99–26443 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–242–000, et al.]

Odessa-Ector Power Partners, L.P., et al.; Electric Rate and Corporate Regulation Filings

October 4, 1999.

Take notice that the following filings have been made with the Commission:

1. Odessa-Ector Power Partners, L.P.

[Docket No. EG99–242–000]

Take notice that on September 30, 1999, Odessa-Ector Power Partners, L.P. (Odessa-Ector Power), with its principal offices at 4100 Spring Valley Road, Suite 1001, Dallas, Texas 75244, filed with the Federal Energy Regulatory Commission, an application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935, as amended, and Part 365 of the Commission's regulations.

Odessa-Ector Power is a Delaware limited partnership, which will construct, own and operate a 1000 MW natural gas-fired generating facility within the region governed by the Electric Reliability Council of Texas (ERCOT) and sell electricity at wholesale.

Comment date: October 25, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. DPL Energy

[Docket No. ER96–2601–013]

Take notice that on September 28, 1999, DPL Energy tendered for filing an updated generation market power analysis.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Kamps Propane, Inc.

[Docket No. ER98–1148–004]

Take notice that on September 27, 1999, Kamps Propane, Inc. filed its quarterly report for the quarter ending June 30, 1999, for information only.

4. California Independent System Operator Corporation

[Docket No. ER99–3289–002]

Take notice that on September 27, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Notice of Implementation which was sent to Market Participants and posted on the ISO Home Page on September 24, 1999. The Notice of Implementation specifies that the software modifications required to implement the portions of Amendment No. 17 to the ISO Tariff relating to changes to the Payment Calendar, except for the software changes related to the ISO's Meter Data Acquisition System, are ready for implementation. The Notice of Implementation specifies that all changes to the Payment Calendar except for those related to the submission of meter data will become effective as of October 1, 1999.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. SOWEGA Power LLC

[Docket No. ER99–3427–000]

Take notice that on September 28, 1999, SOWEGA Power LLC amended its

application in response to Commission concerns expressed in the above-captioned docket in which SOWEGA has requested blanket approval to make sales at market-based rates from its two generators located in southwestern Georgia and waiver of certain of the Commission's regulations.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation; Wisconsin Public Service Corporation and Upper Peninsula Power Company

[Docket Nos. ER99–3980–000 and ER99–3981–000]

Take notice that on September 28, 1999, Wisconsin Public Service Corporation and Upper Peninsula Power Company withdrew their filings in the above-captioned proceedings.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. AG-Energy, L.P.; Seneca Power Partners, L.P.; Sterling Power Partners, L.P.; Power City Partners, L.P.

[Docket No. ER99–4443–000]

Take notice that on September 28, 1999, AG-Energy, L.P. (AG-Energy), Seneca Power Partners, L.P. (Seneca Power Partners), Sterling Power Partners, L.P. (Sterling Power Partners), and Power City Partners, L.P. (Power City Partners) (collectively, the Applicants) submitted to the Commission for acceptance amended FERC Rate Schedules No. 2. In these amended rate schedules, Applicants request certain authority to make sales of specified ancillary services at market-based rates in the geographic region encompassed by the New York Independent System Operator (NYISO), request certain blanket authorizations concerning the sale of additional ancillary services in NYISO and ancillary services in other geographic markets as the Commission may authorize from time to time, and request waiver of the Commission's Regulations consistent with those waivers granted to entities with market-based rate authority.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Montaup Electric Company

[Docket No. ER99–4529–000]

Take notice that on September 28, 1999, Montaup Electric Company filed a supplement to its September 24, 1999 amendment to its Open Access Transmission Tariff, Original Volume No. 7.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Pool

[Docket No. ER99–4531–000]

Take notice that on September 27, 1999, the New England Power Pool (NEPOOL) Participants Committee (NPC) and Transmission Owners tendered for filing the Forty-Fifth Agreement Amending New England Power Pool Agreement (the Forty-Fifth Agreement) and additional materials, including certain non-substantive technical corrections to Attachment G of the NEPOOL Tariff, required to effect compliance with the Commission's July 30, 1999 order, *New England Power Pool,* 88 FERC ¶ 61,140.

The NPC and Transmission Owners state that copies of these materials were sent to all entities on the restricted service list maintained by the Secretary in Docket Nos. OA97–237–007, ER97–1079–006, ER97–3574–005, OA97–608–005, ER97–4421–005 and ER98–499–004, to the parties executing the April 5, 1999 settlement agreement in those dockets, to the NEPOOL Participants in accordance with NEPOOL procedures, and to the six New England state governors and regulatory commissioners.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. South Carolina Electric & Gas Company

[Docket No. ER99–4532–000]

Take notice that on September 27, 1999, South Carolina Electric & Gas Company (SCE&G), tendered for filing a service agreement establishing Dynegy Power Marketing, Inc., as a customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Dynegy Power Marketing, Inc. and the South Carolina Public Service Commission.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER99–4533–000]

Take notice that on September 27, 1999, Cinergy Services, Inc., on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC), tendered for filing an executed service agreement between COC and Koch Energy Trading, Inc. (KET), replacing the unexecuted service agreement filed on November 28, 1997 under Docket No. ER98–847–000 per COC FERC Electric Power Sales Tariff, Original Volume No. 4, which has been replaced by the COC FERC Electric Market-Based Power Sales Tariff, Original Volume No. 7–MB.

Cinergy is requesting an effective date of one day after this filing.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Central Maine Power Company

[Docket No. ER99–4534–000]

Take notice that on September 27, 1999, Central Maine Power Company (CMP), tendered for filing modifications to provisions and schedules in its open access transmission tariff to comply with the order issued by the Federal Energy Regulatory Commission (Commission) on July 30, 1999, in *New England Power Pool,* 88 FERC ¶ 61,140 (1999). In that order, the Commission approved the Comprehensive Agreement Resolving All Issues Raised In This Proceeding Except For One Issue Raised By Great Bay Power Company (Agreement), filed by the New England Power Pool (NEPOOL) on April 7, 1999, in Docket Nos. OA97–237–000, ER97–1079–000, ER97–3574–000, OA97–608–000, ER97–4421–000 and ER98–499–000.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Vermont Electric Power Company

[Docket No. ER99–4535–000]

Take notice that on September 27, 1999, Vermont Electric Power Company (VELCO), tendered for filing certain modifications to provisions and schedules in its open access transmission tariff to comply with the order issued by the Federal Energy Regulatory Commission (Commission) on July 30, 1999, in *New England Power Pool,* 88 FERC ¶ 61,140 (1999). In that order, the Commission approved the Comprehensive Agreement Resolving All Issues Raised In This Proceeding Except For One Issue Raised By Great Bay Power Company (Agreement), filed by the New England Power Pool (NEPOOL) on April 7, 1999, in Docket Nos. OA97–237–000, ER97–1079–000, ER97–3574–000, OA97–608–000, ER97–4421–000 and ER98–499–000.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. New England Power Pool

[Docket No. ER99–4536–000]

Take notice that on September 27, 1999, the New England Power Pool Participants Committee tendered for filing changes to Market Rules 6, 8 and 9.

Additionally, NEPOOL has requested a waiver of the Commission's notice requirements to permit the revisions to Market Rules 6, 8 and 9 to become effective as of September 28, 1999.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Fitchburg Gas and Electric Light Company; Concord Electric Company; Exeter & Hampton Electric Company

[Docket No. ER99–4537–000]

Take notice that on September 27, 1999, Fitchburg Gas and Electric Light Company, Concord Electric Company and Exeter & Hampton Electric Company (Companies), tendered for filing with the Federal Energy Regulatory Commission (Commission) amendments to their respective Pro Forma Open Access Transmission Tariffs. These changes are being made so that the Companies' Tariffs are consistent with the Commission's requirements in the New England Power Pool, FERC Docket Nos. OA97–237–000; ER97–1079–000; ER97–3574–000; OA97–608–000; ER97–4421–000; and ER98–499–000, Order 88 FERC ¶ 61,140 (1999), issued July 30, 1999. Fitchburg Gas and Electric Light Company also tendered for filing a Service Agreement with Pinetree Power Fitchburg Inc.

A copy of this filing was served upon all parties listed on the official service list in the respective Companies' original open access transmission tariff proceedings. Concord Electric Company and Exeter & Hampton Electric Company served a copy of the filing on the New Hampshire Public Utilities Commission. Fitchburg Gas and Electric Light Company served a copy on the Massachusetts Department of Telecommunications & Energy.

The Companies have requested a waiver of the Commission's regulations to permit an effective date of March 1, 1999, which would enable their changes to be effective on the same date as the NEPOOL Settlement Agreement effective date.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Avista Corporation

[Docket No. ER99–4538–000]

Take notice that on September 27, 1999, Avista Corporation (AVA), tendered for filing with the Federal Energy Regulatory Commission a statement of initial actual construction costs pursuant to Rate Schedule FERC No. 247.

AVA requests an effective date of July 1, 1999.

A copy of this filing has been served upon the Public Utility District No. 1 of Pend Oreille County.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–4539–000]

Take notice that on September 27, 1999, Alliant Energy Corporate Services, Inc. tendered for filing executed Service Agreements for short-term firm point-to-point transmission service and non-firm point-to-point transmission service, establishing NewEnergy, Inc., as a point-to-point Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc., transmission tariff.

Alliant Energy Corporate Services, Inc., requests an effective date of September 13, 1999, and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Public Service Company of New Mexico

[Docket No. ER99–4540–000]

Take notice that on September 27, 1999, Public Service Company of New Mexico (PNM), tendered for filing, a Letter Agreement (dated September 22, 1999) between PNM and Plains Electric Generation and Transmission Cooperative, Inc. (Plains) establishing an additional point of receipt for Plains at PNM's San Juan Generating Station 345kV bus on a temporary basis under Service Schedule G to the PNM/Plains Master Interconnection Agreement.

Copies of this filing have been provided to Plains and to the New Mexico Public Regulation Commission. PNM's filing is available for inspection at its offices in Albuquerque, New Mexico.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. New York State Electric & Gas Corporation

[Docket No. ER99–4541–000]

Take notice that on September 27, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing Service Agreements between NYSEG and El Paso Power Services and Allegheny Power (Customer). These Service Agreements specify that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed July 9, 1997 and effective on November 27, 1997, in Docket No. ER97–2353–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of September 1, 1999, for the Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Boston Edison Company

[Docket No. ER99–4542–000]

Take notice that on September 27, 1999, Boston Edison Company tendered for filing a notice of cancellation of Service Agreement No. 45 under its FERC Electric Tariff No. 8. Service Agreement No. 45 is a non-firm transmission point-to-point transmission contract with Duke Energy Trading and Marketing, L.L.C. (formerly NP Energy, Inc).

Boston Edison requests waiver of the Commission's regulations to permit a cancellation date of August 26, 1999.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–4543–000]

Take notice that on September 27, 1999, Alliant Energy Corporate Services, Inc., tendered for filing an executed Service Agreement for Network Integration Transmission Service and an executed Network Operating Agreement, establishing McGregor Municipal Utilities as a Network Customer under the terms of the Alliant Energy Corporate Services, Inc., open access transmission tariff.

Alliant Energy Corporate Services, Inc., also requests the cancellation of two prior network integration transmission service agreements and associated network operating agreements for service to McGregor Municipal Utilities.

Alliant Energy Corporate Services, Inc., requests an effective date of September 1, 1999, for the service provided to McGregor Municipal Utilities. Alliant Energy Corporate Services, Inc., accordingly, seeks waiver of the Commission's notice requirements to permit the requested effective date.

A copy of this filing has been mailed to the Illinois Commerce Commission, the Iowa Department of Commerce, the Minnesota Public Utilities Commission, and the Public Service Commission of Wisconsin.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER99–4544–000]

Take notice that on September 27, 1999, Cinergy Services, Inc., on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC), tendered for filing an executed service agreement between COC and Koch Energy Trading, Inc. (KET), replacing the unexecuted service agreement filed on November 28, 1997 under Docket No. ER98–847–000 per COC FERC Electric Power Sales Tariff, Original Volume No. 4, which has been replaced by the COC FERC Electric Cost-Based Power Sales Tariff, Original Volume No. 6–CB.

Cinergy is requesting an effective date of one day after this filing.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. California Independent System Operator Corporation

[Docket No. ER99–4545–000]

Take notice that on September 27, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a proposed amendment (Amendment No. 22) to the ISO Tariff. Amendment No. 22 includes proposed changes to the ISO Tariff related to the implementation of Firm Transmission Rights, including a requirement that FTR Holders provide the ISO with information on affiliated California market participants to assist in the monitoring of the FTR market, modifications to the Existing Transmission Contract scheduling template that will provide for validation of ETC schedules, changes required to implement the creation of a new Congestion Management Zone, changes to allocate the costs of Reliability Must-Run Units located outside the Service Area of a utility that is a party to the Transmission Control Agreement, various changes to enhance settlement and billing under the ISO Tariff that were developed through the ISO's stakeholder ''Settlement Improvement Team,'' and certain non-substantive changes to provisions of the ISO Tariff related to Reliability Must-Run Contracts that the ISO had agreed to make in its Answer to comments on Amendment No. 15 to the ISO Tariff.

The ISO states that this filing has been served upon the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, and all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. New England Power Company

[Docket No. ER99–4546–000]

Take notice that on September 27, 1999, New England Power Company (NEP) tendered for filing a compliance filing amending NEP's open access transmission tariff, New England Power Company, FERC Electric Tariff, Original Volume No. 9 (Tariff No. 9). This filing is being made to revise Tariff No. 9 to reflect the changes made necessary by New England Power Pool's Offer of Settlement filed on April 7, 1999 in Docket Nos. OA97–237–000, et. al., which was approved by the Commission on July 30, 1999.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. New England Power Pool

[Docket No. ER99–4547–000]

Take notice that on September 27, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a compliance report in compliance with the Commission's order in *New England Power Pool*, 88 FERC ¶ 61,140 (1999).

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. PJM Interconnection, L.L.C.

[Docket No. ER99–4548–000]

Take notice that on September 28, 1999, PJM Interconnection, L.L.C. (PJM), submitted for filing an interconnection service agreement between PJM and Sithe Power Marketing, L.P.

Copies of this filing were served upon Sithe, GPU Energy, the Pennsylvania Public Utility Commission, and the New Jersey Board of Public Utilities.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Kansas City Power & Light Company

[Docket No. ER99–4549–000]

Take notice that on September 28, 1999, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated August 30, 1999, between KCPL and Reliant Energy Services, Inc.. This agreement provides for Market Based Sales Service.

KCPL proposes an effective date of August 30, 1999, and requests waiver of the Commission's notice requirement.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Idaho Power Company

[Docket No. ER99–4550–000]

Take notice that on September 28, 1999, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission Service Agreements for Non-Firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service between Idaho Power Company and MIECO Inc.

Idaho Power Company requests the Commission designate an effective date of September 20, 1999 and a rate schedule number for these service agreements.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Southwest Power Pool, Inc.

[Docket No. ER99–4551–000]

Take notice that on September 28, 1999, Southwest Power Pool, Inc. (SPP) tendered for filing executed service agreements for loss compensation firm service, and short-term and non-firm point-to-point transmission service under the SPP Tariff with TXU Energy Trading Company (TXU).

SPP requests an effective date of September 16, 1999 for each of these agreements.

Copies of this filing were served upon TXU.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. The United Illuminating Company

[Docket No. ER99–4552–000]

Take notice that on September 28, 1999, The United Illuminating Company (UI) tendered for filing proposed

changes to its Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as previously amended, to comply with the Commission's July 30, 1999 order approving the ''Comprehensive Agreement Resolving All Issues Raised In This Proceeding Except For One Issue Raised by Great Bay Power Company'' filed on April 7, 1999 by the New England Power Pool in Docket Nos. OA97-237–000, ER97–1079–000, ER97–3574–000, OA97–608–000, ER97–4421–000 and ER98-499–000, *New England Power Pool*, 88 FERC ¶ 61,140 (1999).

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Niagara Mohawk Power Corporation

[Docket No. ER99–4553–000]

Take notice that on September 28, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing with the Federal Energy Regulatory Commission an executed, amended Transmission Service Agreement between Niagara Mohawk and the Power Authority of the State of New York (NYPA) to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant, Bid Process Suppliers and Substitute Suppliers to the points where Niagara Mohawk's transmission system connects to its retail distribution system East of Niagara Mohawk's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

Niagara Mohawk requests an effective date of September 1, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. PacifiCorp

[Docket No. ER99–4554–000]

Take notice that on September 28, 1999, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, the Power Sales Agreement with Hinson Power Company under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 12.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Niagara Mohawk Power Corporation

[Docket No. ER99–4555–000]

Take notice that on September 28, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing with the Federal Energy Regulatory Commission an executed, amended Transmission Service Agreement between Niagara Mohawk and the Power Authority of the State of New York (NYPA) to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant to a point where Niagara Mohawk's transmission system connects to its retail distribution system West of Niagara Mohawk's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

Niagara Mohawk requests an effective date of September 1, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Niagara Mohawk Power Corporation

[Docket No. ER99–4556–000]

Take notice that on September 28, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and the Power Authority of the State of New York (NYPA) to permit NYPA to deliver power and energy from NYPA's Bid Process Supplier to a point where Niagara Mohawk's transmission system connects to its retail distribution system West of Niagara Mohawk's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

Niagara Mohawk requests an effective date of September 1, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: October 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Dayton Power and Light Company

[Docket No. ER99–4557–000]

Take notice that on September 28, 1999, Dayton Power and Light (DP&L) tendered for filing an updated generation market power analysis.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. Virginia Electric and Power Company

[Docket No. ER99–4558–000]

Take notice that on September 28, 1999, Virginia Electric and Power Company (Virginia Power) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Sempra Energy Trading Corporation under the Company's Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide firm point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of September 28, 1999, the date of filing of the Service Agreement.

Copies of the filing were served upon Sempra Energy Trading Corporation, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. Blackstone Valley Electric Company

[Docket No. ER99–4559–000]

Take notice that on September 28, 1999 Blackstone Valley Electric Company (BVE) tendered for filing a Related Transmission Facilities Agreement (Agreement) between BVE and Lake Road Generating Company, L.P. (Lake Road). The Agreement establishes the requirements, terms and conditions for BVE to complete transmission upgrades that will enable Lake Road to operate in parallel with BVE's electrical system.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. Idaho Power Company

[Docket No. ER99–4560–000]

Take notice that on September 28, 1999, Idaho Power Company filed a service agreement for firm point-to-point transmission service to Arizona Public Service Company under Idaho Power Company's transmission tariff.

The service agreement is proposed to become effective October 1, 1999.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

39. American Electric Power Service Corporation

[Docket No. ER99–4561–000]

Take notice that on September 29, 1999, the American Electric Power Service Corporation (AEPSC), tendered for filing an executed Firm Point-to-Point Transmission Service Agreement for The Detroit Edison Company and an executed Network Integration Transmission Service Agreement for The City of Sturgis, Michigan. Both of these agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after September 1, 1999.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: October 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

40. PP&L, Inc.

[Docket No. ER99–4562–000]

Take Notice that on September 29, 1999, PP&L, Inc. (PP&L) filed a Service Agreement dated September 22, 1999, with Worley and Obetz, Inc. d/b/a Advanced Energy (Advanced Energy) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Advanced Energy as an eligible customer under the Tariff.

PP&L requests an effective date of September 29, 1999 for the Service Agreement.

PP&L states that copies of this filing have been supplied to Advanced Energy and to the Pennsylvania Public Utility Commission.

Comment date: October 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

41. Northeast Utilities Service Company

[Docket No. ER99–4563–000]

Take notice that on September 29, 1999, Northeast Utilities Service Company (NUSCO) tendered for filing, a Service Agreement to provide Non-Firm Point-To-Point Transmission Service to Northeast Generation Company under the NU System Companies' Open Access Transmission Service Tariff No. 9.

NUSCO states that a copy of this filing has been mailed to Northeast Generation Company.

NUSCO requests that the Service Agreement become effective December 1, 1999.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

42. Virginia Electric and Power Company

[Docket No. ER99–4564–000]

Take notice that on September 29, 1999, Virginia Electric and Power Company (Virginia Power) tendered for filing an Assignment and Assumption Agreement entered into by and among Strategic Energy, Ltd. (Assignor), Strategic Energy, LLC (Assignee) and Virginia Electric and Power Company (Virginia Power). Under this assignment, the Assignor assigns to the Assignee and the Assignee assumes all of the Assignor's rights and obligations pertaining to its Service Agreement with Virginia Power dated December 11, 1997 and accepted by Letter Order of the Commission on February 27, 1998 under Docket No. ER98–1333.

Virginia Power requests an effective date of August 31, 1999, the date of the Assignment and Assumption Agreement.

Copies of this filing were served upon Strategic Energy LLC, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: October 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

43. Central Illinois Light Company

[Docket No. ER99–4565–000]

Take notice that on September 29, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and two service agreements with two new customers, Allegheny Power Service Corporation and Southern Illinois Power Cooperative and a name change for two customers now known as Dynegy Power Marketing, Inc. and New Energy, Inc.

CILCO requested an effective date of September 1, 1999 for the new service agreements.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

44. PECO Energy Company

[Docket No. ER99–4566–000]

Take notice that on September 29, 1999, PECO Energy Company (PECO) filed under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, a Transaction Letter dated September 27, 1999 with Horizon Energy Company d/b/a Exelon Energy (EXELON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of October 1, 1999, for the Transaction Letter.

PECO states that copies of this filing have been supplied to EXELON and to the Pennsylvania Public Utility Commission.

Comment date: October 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

45. Southern Company Services, Inc.

[Docket No. ER99–4567–000]

Take notice that on September 29, 1999, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company (APCo), filed an amendment to the Interconnection Agreement between Mobile Energy Services, Company, L.L.C. and APCo (APCo Rate Schedule FERC No. 170) (Agreement). The purpose of the amendment is to extend the term of the Agreement until December 31, 1999.

Comment date: October 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

46. New England Power Company

[Docket No. ER99–4568–000]

Take notice that on September 29, 1999, New England Power Company (NEP) tendered for filing with the Federal Energy Regulatory Commission:

(1) a Stipulation and Agreement between NEP and Granite State Electric Company (Granite State), the New Hampshire Public Utilities Commission and the Governor's Office of Energy and Community Services (NH Agreement); and

(2) a Stipulation and Agreement between NEP and The Narragansett Electric Company (Narragansett), the Rhode Island Public Utilities Commission and the Rhode Island Division of Public Utilities and Carriers (RI Agreement).

The NH Agreement and RI Agreement resolve all issues presented by NEP's ''Reconciliation of Contract Termination Charges'' to Granite State and Narragansett, respectively.

Comment date: October 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

47. Tucson Electric Power Company

[Docket No. ER99–4569–000]

Take notice that on September 29, 1999, Tucson Electric Power Company (TEP) tendered for filing one (1) service agreement for short-term firm point-to-point transmission-term firm transmission service titled: ''Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Arizona Electric Power Cooperative, Inc.,'' dated July 19, 1999. Service under this agreement has not yet commenced.

Comment date: October 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

48. Commonwealth Atlantic Limited Partnership

[Docket No. ER99–4570–000]

Take notice that on September 29, 1999, Commonwealth Atlantic Limited Partnership (CALP), owner of a 310 MW generating facility located in the City of Chesapeake, Virginia, petitioned the Commission for acceptance of a Redetermination Agreement amending the fuel compensation pricing provisions of its Power Purchase and Operating Agreement with Virginia Electric and Power Company.

CALP requested waiver of the 60-day notice requirement and an effective date of October 1, 1999.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

49. Arizona Public Service Company

[Docket No. ER99–4577–000]

Take notice that on September 28, 1999, Arizona Public Service Company (APS), tendered for filing revisions to its Open Access Transmission Tariff needed in order to accommodate retail direct access being implemented by the Arizona Corporation Commission.

APS requests an effective date of September 29, 1999.

A copy of this filing has been served on the Arizona Corporation Commission. Copies of the filing can be viewed on APS' OASIS website, www.azpsoasis.com.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

50. Montaup Electric Company and Somerset Power, L.L.C.

[Docket No. ER99–4578–000]

Take notice that on September 29, 1999, Montaup Electric Company (Montaup), tendered for filing the First Amendment to an Interconnection Agreement between Montaup and Somerset Power, L.L.C. (Somerset). This Amendment enables Somerset to test and maintain the metering equipment.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

51. Puget Sound Energy, Inc.

[Docket No. ER99–4592–000]

Take notice that on September 30, 1999, Puget Sound Energy, Inc. tendered for filing with the Federal Energy Regulatory Commission, its quarterly report for the quarters ending March 31, 1999 and June 30, 1999.

Comment date: October 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

52. Peter E. Meier, Nancy A. Manning

[Docket Nos. ID–3237–002 and ID–3425–000]

Take notice that on September 28, 1999, the above named individuals filed with the Federal Energy Regulatory Commission an application for authority to hold interlocking positions in Logan Generating Company, L.P., with its principal place of business at 7500 Old Georgetown Road, Bethesda, Maryland 20814.

Comment date: October 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–26424 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

October 5, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Transfer of License.

b. Project No: 2459–093.

c. Dated Filed: September 16, 1999.

d. Applicants: West Penn Power Company, Energy Subsidiary, and Allegheny Energy Supply Company, L.L.C.

e. Name and Location of Project: The Lake Lynn Project is on the Cheat River in Monongalia County, West Virginia and Fayette County, Pennsylvania. The project does not occupy federal or tribal lands.

f. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. Applicant Contacts: Ms. Ann M. Wohlgemuth, Allegheny Energy Service Corporation, 800 Cabin Drive, Greensburg, PA 15601, (724) 838–5674, Mr. David C. Benson, Allegheny Energy Supply, RR 12, Box 1000, Roseytown Road, Greensburg, PA 15601, (724) 853–3790, and Mr. John A. Whittaker, IV, Winston & Strawn, 1400 L Street, NW, Washington, DC 20005, (202) 371–5766.

h. FERC Contact: Any questions on this notice should be addressed to James Hunter at (202) 219–2839, or e-mail address, james.hunter@ferc.fed.us.

i. Deadline for filing comments and or motions: November 15, 1999.

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.

Please include the project number (P–2459–093) on any comments or motions filed.

j. Description of Proposal: Applicants propose a transfer of the license for Project No. 2459 from West Penn Power Company to Energy Subsidiary, a soon to be formed wholly-owned subsidiary, and they to Allegheny Energy Supply Company, L.L.C., a soon to be formed

generating company affiliate of West Penn. Transfer is being sought as part of an intra-corporate reorganization of West Penn's parent company, Allegheny Energy, Inc.

k. 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 be calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

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 my 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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title COMMENTS, RECOMMENDATIONS FOR TERMS AND CONDITIONS, 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. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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. 99–26439 Filed 10–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

October 6, 1999.

The following notice of meeting is published pursuant to section 3(A) of the goverment in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: October 13, 1999, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda; *Note—items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone, (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro 727TH Meeting—October 13, 1999, Regular Meeting (10:00 a.m.)

CAH–1.
DOCKET# P–460, 017, CITY OF TACOMA, WASHINGTON
OTHER#S P–460, 018, CITY OF TACOMA, WASHINGTON
CAH–2.
DOCKET# P–2113, 117, WISCONSIN VALLEY IMPROVEMENT COMPANY
CAH–3.
DOCKET# P–2436, 101, CONSUMERS ENERGY COMPANY
OTHER#S P–2447, 097, CONSUMERS ENERGY COMPANY
P–2448, 099, CONSUMERS ENERGY COMPANY
P–2449, 093, CONSUMERS ENERGY COMPANY
P–2450, 089, CONSUMERS ENERGY COMPANY
P–2451, 093, CONSUMERS ENERGY COMPANY
P–2452, 103, CONSUMERS ENERGY COMPANY
P–2453, 094, CONSUMERS ENERGY COMPANY
P–2468, 091, CONSUMERS ENERGY COMPANY
P–2580, 120, CONSUMERS ENERGY COMPANY
P–2599, 099, CONSUMERS ENERGY COMPANY
CAH–4.
DOCKET# P–11080, 005, EAGLE CREST ENERGY COMPANY
CAH–5.
DOCKET# P–11157, 002, RUGRAW, INC.
CAH–6.
DOCKET# P–2170, 010, CHUGACH ELECTRIC ASSOCIATION, INC.
CAH–7.
DOCKET# P–2004, 075, HOLYOKE WATER POWER COMPANY
OTHER#S P–11607, 002, HOLYOKE GAS & ELECTRIC DEPARTMENT, ASHBURNHAM MUNICIPAL LIGHT PLANT, AND MASSACHUSETTS MUNICIPAL WHOLESALE ELECTRIC COMPANY

Consent Agenda—Electric

CAE–1.
DOCKET# ER99–4235, 000, NEW YORK INDEPENDENT SYSTEM OPERATOR, INC., CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., LONG ISLAND LIGHTING COMPANY, NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE & ROCKLAND UTILITIES, INC., ROCHESTER GAS & ELECTRIC CORPORATION, POWER AUTHORITY OF THE STATE OF NEW YORK AND NEW YORK POWER POOL
OTHER#S ER97–1523, 000, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., LONG ISLAND LIGHTING COMPANY, NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE & ROCKLAND UTILITIES, INC., ROCHESTER GAS & ELECTRIC CORPORATION, POWER AUTHORITY OF THE STATE OF NEW YORK AND NEW YORK POWER POOL
OA97–470, 000, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., LONG ISLAND LIGHTING COMPANY, NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE & ROCKLAND UTILITIES, INC., ROCHESTER GAS & ELECTRIC CORPORATION, POWER AUTHORITY OF THE STATE OF NEW YORK AND NEW YORK POWER POOL
ER97–4234, 000, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., LONG ISLAND LIGHTING COMPANY, NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE &

ROCKLAND UTILITIES, INC., ROCHESTER GAS & ELECTRIC CORPORATION, POWER AUTHORITY OF THE STATE OF NEW YORK AND NEW YORK POWER POOL
CAE–2.
DOCKET# ER99–4113, 000, CALIFORNIA POWER EXCHANGE CORPORATION
CAE–3.
DOCKET# ER99–4226, 000, AMEREN OPERATING COMPANIES
CAE–4.
DOCKET# ER99–4193, 000, NEW ENGLAND POWER POOL
CAE–5.
DOCKET# ER99–4102, 000, MILFORD POWER COMPANY, L.L.C.
OTHER#S ER99–4122, 000, APS ENERGY SERVICES COMPANY, INC.
ER99–4162, 000, MANTUA CREEK GENERATING COMPANY, L.P.
ER99–4282, 000, ATHENS GENERATING COMPANY, L.P.
CAE–6.
DOCKET# ER99–4166, 000, MID-CONTINENT AREA POWER POOL
CAE–7.
OMITTED
CAE–8.
DOCKET# ER99–3301, 001, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–9.
DOCKET# ER99–2997, 001, NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL
OTHER#S ER99–4322, 000, NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL
CAE–10.
DOCKET# ER99–3092, 000, CENTRAL MAINE POWER COMPANY
OTHER#S ER99–3094, 000, CENTRAL MAINE POWER COMPANY
CAE–11.
OMITTED
CAE–12.
DOCKET# ER99–363, 002, SOUTHERN COMPANY SERVICES, INC.
OTHER#S EL99–27, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–374, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–424, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–425, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–426, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–430, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–432, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–433, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–435, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–447, 001, SOUTHERN COMPANY SERVICES, INC.
ER99–1165, 000, SOUTHERN COMPANY SERVICES, INC.
CAE–13.
OMITTED
CAE–14.
OMITTED
CAE–15.
DOCKET# EL99–44, 001, ARIZONA PUBLIC SERVICE COMPANY V. IDAHO POWER COMPANY
CAE–16.
DOCKET# ER99–55, 001, AVISTA CORPORATION
OTHER#S ER99–55, 002, AVISTA CORPORATION
CAE–17.
DOCKET# EL99–70, 000, UNITED POWER, INC.
OTHER#S ER99–3307, 000, UNITED POWER, INC.
CAE–18.
DOCKET# EL99–20, 000, MINNESOTA POWER, INC. V. NORTHERN STATES POWER COMPANY
CAE–19.
DOCKET# NJ97–9, 005, COLORADO SPRINGS UTILITIES
OTHER#S NJ97–8, 005, SOUTH CAROLINA PUBLIC SERVICE AUTHORITY
NJ98–3, 004, SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT
CAE–20.
DOCKET# EL98–71, 001, PJM INTERCONNECTION, LLC

Consent Agenda Gas and Oil

CAG–1.
DOCKET# PR99–15, 000, LOUISIANA STATE GAS, LLC
OTHER#S PR99–15, 001, LOUISIANA STATE GAS, LLC
CAG–2.
DOCKET# RP96–312, 018, TENNESSEE GAS PIPELINE COMPANY
OTHER#S RP96–312, 019, TENNESSEE GAS PIPELINE COMPANY
RP96–312, 020, TENNESSEE GAS PIPELINE COMPANY
RP96–312, 021, TENNESSEE GAS PIPELINE COMPANY
RP96–312, 022, TENNESSEE GAS PIPELINE COMPANY
CAG–3.
DOCKET# RP99–291, 000, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–4.
DOCKET# RP99–504, 000, WILLIAMS GAS PIPELINES CENTRAL, INC.
CAG–5.
DOCKET# PR99–6, 001, PG&E GAS TRANSMISSION TECO INC.
CAG–6.
DOCKET# CP88–391, 024, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
OTHER#S RP93–162, 009, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–7.
DOCKET# RP92–236, 017, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
OTHER#S RP92–163, 010, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
RP92–163, 011, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
RP92–170, 010, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
RP92–170, 011, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
RP92–236, 016, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
RP92–163, 000, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
RP92–170, 000, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
RP92–236, 000, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
CAG–8.
OMITTED.
CAG–9.
DOCKET# RP99–328, 000, TENNESSEE GAS PIPELINE COMPANY
OTHER#S RP99–328, 001, TENNESSEE GAS PIPELINE COMPANY
CAG–10.
DOCKET# RP97–375, 008, WYOMING INTERSTATE COMPANY, LTD.
OTHER#S RP97–375, 007, WYOMING INTERSTATE COMPANY, LTD.
CAG–11.
DOCKET# RP95–362, 001, KOCH GATEWAY PIPELINE COMPANY
CAG–12.
DOCKET# RP95–136, 011, WILLIAMS NATURAL GAS COMPANY
OTHER#S RP95–136, 010, WILLIAMS NATURAL GAS COMPANY
CAG–13.
DOCKET# RP97–287, 037, EL PASO NATURAL GAS COMPANY
CAG–14.
DOCKET# RP98–404, 005, MISSISSIPPI RIVER TRANSMISSION CORPORATION
OTHER#S RP98–404, 004, MISSISSIPPI RIVER TRANSMISSION CORPORATION
CAG–15.
DOCKET# IS90–21 ET AL., 000, WILLIAMS PIPE LINE COMPANY
OTHER#S IS91–34 ET AL., 000, WILLIAMS PIPE LINE COMPANY
CAG–16.
DOCKET# MG99–23, 000, GARDEN BANKS GAS PIPELINE, L.L.C.
CAG–17.
DOCKET# CP99–96, 003, CNG TRANSMISSION CORPORATION
CAG–18.
DOCKET# CP99–163, 000, QUESTAR SOUTHERN TRAILS PIPELINE COMPANY
OTHER#S CP99–165, 000, QUESTAR SOUTHERN TRAILS PIPELINE COMANY
CP99–165, 006, QUESTAR SOUTHERN TRAILS PIPELINE COMPANY
CAG–19.
DOCKET# CP99–242, 000, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
CAG–20.
DOCKET# CP99–550, 000, NATIONAL FUEL GAS DISTRIBUTION CORPORATION
CAG–21.
DOCKET# CP99–557, 000, COLUMBIA GAS TRANSMISSION CORPORATION
CAG–22.
DOCKET# CP99–594, 000, TEXAS EASTERN TRANSMISSION CORPORATION
OTHER#S CP99–595, 000, MISSION PIPELINE COMPANY
CAG–23.
DOCKET# CP99–577, 000, DUKE ENERGY FIELD SERVICES, INC.

OTHER#S CP99–578, 000, TEXAS EASTERN TRANSMISSION CORPORATION
CAG–24.
DOCKET# RM79–15, 001, PROPOSED REGULATIONS FOR THE IMPLEMENTATION OF SECTION 401 OF THE NATURAL GAS POLICY ACT OF 1978
OTHER#S RM89–67, 000, HEARING AND PUBLIC COMMENT ON THE PROPOSED RULE OF THE DEPARTMENT OF ENERGY RELATING TO ESTABLISHING NATURAL GAS CURTAILMENT PRIORITIES INTERSTATE PIPELINES
RM91–1, 000, CHEMICAL MANUFACTURERS ASSOCIATION
RM91–13, 000, ILLINOIS COMMERCE COMMISSION
CAG–25.
DOCKET# PR99–1, 000, TRANSOK, LLC
OTHER#S PR99–1, 001, TRANSOK, LLC
PR99–2, 000, TRANSOK, LLC
PR99–2, 001, TRANSOK, LLC
PR99–12, 000, TRANSOK, LLC
PR99–12, 001, TRANSOK, LLC

Hydro Agenda

H–1.
RESERVED

Electric Agenda

E–1.
RESERVED

Oil and Gas Agenda

I. PIPELINE RATE MATTERS

PR–1.
RESERVED

II. PIPELINE CERTIFICATE MATTERS

PC–1.
RESERVED

David P. Boergers,

Secretary.

[FR Doc. 99–26643 Filed 10–7–99; 11:27 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6454–9]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Applications for Reference and Equivalent Method Determinations

AGENCY: Environmental Protection Agency.

ACTION: Notice of receipt of applications.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that it has received an application for a reference method determination from the DKK Corporation (Tokyo, Japan) for DKK Corporation's Model GFS–112E SO_2 air monitoring method. Three applications have also been received by the EPA for equivalent method determinations from Environnement S. A. (Paris, France) for its SANOA open path monitoring methods for O_3, SO_2, and NO_2.

FOR FURTHER INFORMATION CONTACT: Frank F. McElroy, Human Exposure and Atmospheric Sciences Division (MD–46), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Phone: (919) 541–2622, e-mail: mcelroy.frank@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Upon application and in accordance with regulations at 40 CFR Part 53, the EPA examines various methods for monitoring the concentrations of certain pollutants in the ambient air. Methods that are determined to meet specific requirements for adequacy are designated as either reference or equivalent methods, thereby permitting their use under 40 CFR Part 58 by States and other agencies for determining attainment of the National Ambient Air Quality Standards. As required by Part 53, this notice is to announce that EPA has received four applications to determine if four new continuous monitoring methods should be designated by the Administrator of the EPA as reference or equivalent methods under 40 CFR Part 53.

An application from DKK Corporation, 4–13–14 Kichijoji Kitamachi, Musashino-shi, Tokyo, Japan was received on June 21, 1999, for a reference method determination for DKK Corporation's Model GFS–112E SO_2 air monitoring analyzer. Applications from Environnement S. A., 111 Boulevard Robespierre, 78304 Poissy, France were received on February 17, 1999, June 28, 1999, and July 23, 1999, for equivalent method determinations for its SANOA Multigas Longpath Air Quality Monitoring System for monitoring O_3, SO_2, and NO_2, respectively.

If, after appropriate technical study, the Administrator determines that any or all of these methods should be designated as reference or equivalent methods, as appropriate, notice thereof will be published in a subsequent issue of the **Federal Register**.

Norine E. Noonan,

Assistant Administrator for Research and Development.

[FR Doc. 99–26557 Filed 10–8–99; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 4, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 13, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0076.
Title: Annual Employment Report for Common Carriers.
Form Number: FCC Form 395.
Type of Review: Extension.
Respondents: Business or other for-profit entities.
Number of Respondents: 4000 respondents.

Estimated Time Per Response: 1 hour per response (avg.).

Total Annual Burden: 4000 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annually, Recordkeeping.

Needs and Uses: The Annual Employment Report is submitted by certain common carrier licensees and permittees. The data is intended to assess compliance with equal employment opportunity requirements. Data is used by the FCC, Congress, the U.S. Commission on Civil Rights, EEOC, NTIA and public interest groups.

OMB Control Number: 3060–0715.

Title: Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Proprietary Network.

Form Number: N/A.

Type of Review: Revision.

Respondents: Business or other for-profit entities.

Number of Respondents: 6832 respondents.

Estimated Time Per Response: 86.2 hours per response (avg.).

Total Annual Burden: 189,656 hours for modified collections. 588,917 hours for all collections under this control number.

Estimated Annual Reporting and Recordkeeping Cost Burden: $229,520.

Frequency of Response: On occasion, Recordkeeping, Third Party Disclosure.

Needs and Uses: On February 26, 1998, the Commission released the CPNI Order, 63 FR 20326, April 24, 1998, adopting rules implementing the new statutory framework governing carrier use and disclosure of customer proprietary network information (CPNI) created by section 222 of the Communications Act. CPNI includes, among other things, to whom, where, and when a customer places a call, as well as the types of service offerings to which the customer subscribes and the extent the service is used. The Commission issued an Order on Reconsideration which modified the CPNI Order, in part, to preserve the consumer protections mandated by Congress while more narrowly tailoring our rules, where necessary, to enable telecommunications carriers to comply with the law in a more flexible and less costly manner. The Order on Reconsideration reduces by half the burden of compliance with the customer approval requirement. If carriers choose to use CPNI to market telecommunications service offerings outside the customer's existing service, they must obtain customer approval. By expanding the concept of the total service approach to include CPE and information services, the rules were modified to allow carriers to use CPNI without customer approval in most instances to market CPE and information services. Where carriers are required to obtain customer approval, they may still do so through written, oral, or electronic means. The Order on Reconsideration removes the audit mechanism entirely but requires that carriers maintain records of sales and marketing campaigns. The Order on Reconsideration reduces by half the time required to comply with the recordkeeping requirement by limiting application to sales and marketing campaigns. Carriers using CPNI for sales and marketing campaigns must record the date and purpose of the campaign, and what products and services were offered to customers. Carriers are required to maintain these records for a period of at least one year. All the collections will be used to ensure that telecommunications carriers comply with the CPNI requirements and to implement section 222 of the statute.

OMB Control Number: 3060–0721.

Title: One-Time Report of Local Exchange Companies of Cost Accounting Studies.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 400 respondents.

Estimated Time Per Response: 50 hours per response (avg.).

Total Annual Burden: 20,000 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Needs and Uses: Local exchange companies must submit, on a one-time basis, cost accounting studies to identify the direct cost of central office coin services. The requirement would be used to ensure that LECs comply with their obligations under the Telecommunications Act of 1996.

OMB Control Number: 3060–0719.

Title: Quarterly Report of IntraLATA Carriers Listing Payphone Automatic Number Identifications (ANIs).

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 400 respondents.

Estimated Time Per Response: 3.5 hours per response (avg.).

Total Annual Burden: 5600 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Quarterly.

Needs and Uses: Pursuant to the mandate in Section 276(b)(1)(A) to ''establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call'', 47 USC Section 276(b)(1)(A), intraLATA carriers are required to provide to interexchange carriers a quarterly report listing payphone ANIs. The report allows IXCs to determine which dial-around calls are made from payphones. The data, which must be maintained for at least 18 months after the close of a compensation period, will facilitate verification of disputed ANIs. The requirement is used to ensure that intraLATA carriers, and the IXCs comply with their obligations under the 1996 Act.

OMB Control Number: 3060–0724.

Title: Annual Report of Interexchange Carriers Listing the Compensation Amount Paid to Payphone Providers and the Number of Payees.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 275 respondents.

Estimated Time Per Response: 2 hours per response (avg.).

Total Annual Burden: 550 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annually, Recordkeeping.

Needs and Uses: Interexchange carriers responsible for paying per-call compensation must submit annual reports to the Common Carrier Bureau listing the amount of compensation paid to payphone providers and the number of payees. IXCs will also be required to initiate an annual audit of their per-call tracking functions. This would help ensure that all interexchange carriers are paying their respective compensation obligations.

OMB Control Number: 3060–0726.

Title: Quarterly Report of Interexchange Carriers Listing the Number of Dial-Around Calls for Which Compensation is Being Paid to Payphone Owners.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 275 respondents.

Estimated Time Per Response: 30 minutes per response (avg.).

Total Annual Burden: 550 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Quarterly.

Needs and Uses: Interexchange carriers responsible for paying per-call compensation to payphone providers must submit a quarterly list of dial-around calls to those payphone providers. The payphone providers need the list to calculate the compensation to be paid by the interexchange carriers.

OMB Control Number: 3060–0729.

Title: Bell Operating Company Provision of Out-of-Region, Interstate, Interexchange Services, Report and Order, CC Docket No. 96–21, (Affiliated Company Recordkeeping Requirement).

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 7 respondents.

Estimated Time Per Response: 6056 hours per response (avg.).

Total Annual Burden: 42,394 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Recordkeeping.

Needs and Uses: In CC Docket No. 96–21, the Commission removed dominant regulation for BOCs that provide out-of-region, interstate, interexchange services through an affiliate that complies with certain safeguards, in order to facilitate the efficient and rapid provision of out-of-region, domestic, interstate, interexchange services by the BOCs, as contemplated by the 1996 Act, while still protecting ratepayers and competition in the interexchange market. These safeguards requires, among other things, that the affiliate maintain separate books of account from the LEC. The recordkeeping requirement is to ensure that BOCs providing interexchange service through a separate affiliate are in compliance with the Communications Act and Commission policies and rules regarding BOC provision of out-of-region interexchange services.

OMB Control Number: 3060–0748.

Title: Disclosure Requirements for Information Services Provided Through Toll-Free Numbers, 47 CFR Section 64.1504.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 3750 respondents.

Estimated Time Per Response: 2.8 hours per response (avg.).

Total Annual Burden: 10,500 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Third Party Disclosure.

Needs and Uses: 47 CFR Section 64.1504 imposes disclosure requirements on entities that use toll-free numbers to provide information services. The requirements are intended to ensure that callers to toll-free numbers are: (1) Informed if charges will be levied and (2) receive the information necessary to make an informed decision whether to purchase an information service.

OMB Control Number: 3060–0743.

Title: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996—CC Docket No. 96–128.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities; States.

Number of Respondents: 4542 respondents.

Estimated Time Per Response: 30 hours per response (avg.).

Total Annual Burden: 136,677 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Third Party Disclosures.

Needs and Uses: The rules adopted in CC Docket No. 96–128: (1) Establish a plan to ensure fair competition for each and every completed intrastate and interstate call using a payphone; (2) discontinue intrastate and interstate carrier access charge payphone service elements and payments and intrastate and interstate payphone subsidies from basic exchange services; (3) prescribe nonstructural safeguards for BOC payphones; (4) permit the BOCs to negotiate with the payphone location provider about a payphone's presubscribed interLATA carrier; (5) permit all payphone providers to negotiate with the location provider about a payphone's presubscribed interLATA carrier; and (6) adopt guidelines for use by the state in establishing public interest payphones to be located where there would otherwise not be a payphone. The requirements contained in the Order are: State must review their regulations concerning adequacy of local coin rate disclosure and review them where necessary. States must review their regulations concerning market entry or exit requirements and remove them where necessary to ensure consistency with the Commission's regulations. States must comply with the Commission's market-rate local coin call requirement, except where they show proof of market failure. Such a showing could consist of, for example, detailed summary of the record of a state proceeding that examines the costs of providing payphone service within that state and the reasons why the public interest is served by having the state set rates within that market. Each state must review whether it has adequately provided for public interest payphones in a manner consistent with the Order. All payphones are required to transmit specific payphone coding digits as a part of their automatic number identification which will assist in identifying them to compensation payors. Carriers must provide tracking of all compensable calls received from payphones to ensure that each and every completed call from a payphone is receiving compensation. Carriers are required to initiate an annual verification of their per call tracking functions for a period of two years to ensure that they are tracking all of the calls for which they are obligated to pay compensation. LECs must provide verification of disputed ANIs on request and in a timely manner. LECs are required to notify the carrier-payors of each payphone's disconnection on a basis that is as timely as possible. LECs are required to affirmatively state on their bills to PSPs that the bills are for payphone service to facilitate payment of compensation and to avoid disputes. Incumbent LECs must file revised tariffs for central office coin transmission services and CCL charges to ensure that LEC services are priced reasonably and to not include subsidies. Incumbent LECs and AT&T must either reclassify their payphone assets as nonregulated or transfer them to a separate affiliate engaged in nonregulated activities. If a payphone provider does not appear on the LEC-provided customer-owned, coin-operated telephone lists, it must provide alternative verification information to the IXC paying compensation. Payphone providers are required to post the local coin call rate within the informational placard on each payphone. LECs must supply to carrier-payors, on demand, a list of emergency numbers so that carrier-payors will know that they do not have to compensate payphone providers for emergency calls. All the requirements are used to ensure that interexchange carriers, payphone service providers, LECs, and the states, comply with their obligations under the Telecommunications Act of 1996.

OMB Control Number: 3060–0742.

Title: Telephone Number Portability (47 CFR Part 52, Subpart C Sections 52.21–52.31).

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities; States.

Number of Respondents: 237 respondents.

Estimated Time Per Response: 4.75 hours per response (avg.).

Total Annual Burden: 1,125 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Needs and Uses: In the Memorandum Opinion and Order on Reconsideration issued in CC Docket No. 95–116, released March 11, 1997, the Commission affirmed and clarified rules established in its First Report and Order in the proceeding. The proceeding implemented section 251(b)(2) of the Communications Act of 1934, as amended, which requires all LECs to offer number portability in accordance with requirements prescribed by the Commission. The proceedings established the following collections. Carriers participating in a field test of number portability in the Chicago, Illinois areas were required to jointly file with the Commission a report of their findings with 30 days after completion of the test. Sections 52.23(b) and 52.31 require that long-term number portability be provided by LECs and CMRS providers inside the 100 largest MSAs in switches for which another carrier has made a specific request for number portability. A carrier must make its specific requests for deployment of number portability in particular switches at least in months before the deadline for completion of number portability in that MSA. After carriers have submitted requests for number portability, a wireline carrier or CMRS provider must make readily available upon request a list of its switches for which portability has been requested, and those for which portability has not been requested. Section 52.25 requires state regulatory commissions to file with the Commission a notification if they opt to develop a state-specific database for the provision of number portability in lieu of participating in a regional database system. Section 52.25 permits carriers to challenge decisions made by states to develop a state-specific number portability database in lieu of participating in the regional databases by filing a petition with the Commission. Sections 52.23 and 52.31 require carriers that are unable to meet the deadlines for implementing a long-term number portability solution to file with the Commission a petition to extend the time by which implementation in its network will be completed. The requirements were imposed to implement section 251 of the Telecommunications Act of 1996.

OMB Control Number: 3060–0165.

Title: Part 41, Franks, Section 41.31—Records to be Maintained and Reports to be Filed.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 68 respondents.

Estimated Time Per Response: 6 hours per response (avg.).

Total Annual Burden: 408 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Recordkeeping.

Needs and Uses: Section 210 of the Communications Act of 1934, as amended, requires that common carriers subject to the Act maintain records to reflect the name, address, etc., of persons holding telephone or telegraph franks, so as to enable the Commission and/or carriers to compile, if needed, reports in this area. Section 41.31 of the Commission's rules implements Section 210. This information helps to ensure that franks are being addressed fairly.

OMB Control Number: 3060–0147.

Title: Extension of Unsecured Credit for Interstate and Foreign—Section 64.804.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 13 respondents.

Estimated Time Per Response: 8 hours per response (avg.).

Total Annual Burden: 104 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annually.

Needs and Uses: Pursuant to Section 64.804 of the Commission's rules, communications common carriers with operating revenues exceeding $1 million who extend unsecured credit to a candidate or person on behalf of such candidates for Federal office must file with the FCC a report including due and outstanding balances. The information is used for monitoring purposes.

OMB Control Number: 3060–0749.

Title: Disclosure and Dissemination of Pay-Per Call Information, 47 CFR 64.1509.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 25 respondents.

Estimated Time Per Response: 410 hours per response (avg.).

Total Annual Burden: 10,250 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Third party disclosure.

Needs and Uses: Section 64.1509 incorporates in the Commission's rules the requirements of Sections 228(c)(2) and 228(d)(2)–(3) of the Communications Act. Under these sections, common carriers that assign telephone numbers to pay-per-call services must disclose to all interested parties, upon request a list of all assigned pay-per-call numbers. For each assigned number, carriers must also make available: (1) A description of the pay-per-call service; (2) the total cost per minute or other fees associated with the service; and (3) the service provider's name, business address, and telephone number. In addition, carriers handling pay-per-call services must establish a toll-free number that consumer may call to receive information about pay-per-call services. Carriers are required to provide statements of pay-per-call rights and responsibilities to new telephone subscribers at the time service is established and, although not required by statute, to all subscribers annually. The disclosure requirements are intended to ensure that consumers are able to obtain information that will enable them to make informed choices about their use of pay-per-call services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–26519 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

October 5, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with

a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 13, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1 A–804, 445 Twelfth Street, SW, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0473.

Title: Section 74.1251 Technical and equipment modifications.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 200 FM translator stations (100 certifications of new installations; 100 notifications of change in primary FM station being retransmitted).

Estimated Time per Response: 0.25 hour per certification/notification.

Annual Burden: 50.

Annual Costs: $0.

Needs and Uses: Upon replacement of a transmitter that can be completed without FCC approval, Section 74.1251(b)(1) requires that the licensee place in the station records a certification that the new installation complies in all respects with all technical requirements and terms of the station authorization. Section 74.1251(c) requires FM translator licensees to notify the FCC, in writing, of changes in the primary FM station being retransmitted. The certification of the new installation are used by licensees to provide prospective users of the modified equipment with necessary information. If no such information exists, any future problems could prove difficult to solve and could result in electronic frequency interference for long periods of time. The notification of changes in the primary FM station being retransmitted is used by FCC staff to keep records up-to-date and to ensure compliance with FCC rules and regulations.

OMB Control Number: 3060–0181.

Title: Section 73.1615, Operation during modification of facilities.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 110.

Estimated Time Per Response: 30 minutes–1 hour.

Total Annual Burden: 59 hours.

Needs and Uses: Section 73.1615(c) requires notification to the FCC by a licensee of an AM, FM, or TV station when it is in the process of modifying existing facilities as authorized by a construction permit and it becomes necessary to either discontinue operation or to operate with temporary facilities. If such licensee needs to discontinue operations or operate with temporary facilities for more than 30 days, then an informal letter request must be sent to the FCC prior to the 30th day. Section 73.1615(d) requires the licensee of an AM station holding a construction permit which authorizes both a change in frequency and directional facilities to obtain authority from the FCC prior to using any new installation authorized by the permit, or using temporary facilities. This request is to be made by letter 10 days prior to the date on which the temporary operation is to commence. The letter shall describe the operating modes and facilities to be used. The data is used by FCC staff to maintain complete technical records and to ensure that interference will not be caused to other licensed broadcast facilities.

OMB Approval Number: 3060–0347.

Title: Section 97.311 Spread spectrum.

Form Number: N/A.

Type of Review: Revision of existing collection.

Respondents: Individuals, or households.

Number of Respondents: 10.

Estimated Time Per Response: 6 seconds per response.

Total Annual Burden: 1 minute.

Needs and Uses: The record keeping requirement contained in Section 97.311 is necessary to document all spread spectrum transmissions by amateur radio operators. This information must be provided to the District Director when deemed necessary and consist of a computer file that is generated when spread spectrum transmissions are made. This requirement is necessary so that quick resolution of any harmful interference problems can be achieved and to ensure that the station is operating in accordance with the Communications Act of 1934, as amended.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–26521 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–98; DA 99–2016]

Ohio Public Utilities Commission's Petition Requesting Additional Authority To Implement Number Conservation Measures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On September 29, 1999, the Commission released a public notice requesting public comment on a petition from the Ohio Public Utilities Commission (''Petition'') requesting additional authority to implement number conservation measures in the State of Ohio. The intended effect of this action is to make the public aware of, and to seek public comment on, this request.

DATES: Comments are due by October 20, 1999, and reply comments are due by November 3, 1999.

FOR FURTHER INFORMATION CONTACT: Jared Carlson at (202) 418–2320 or jcarlson@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 12th Street, SW, Suite 6–A320, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On September 28, 1998, the Federal Communications Commission (''Commission'') released an order in the matter of a Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, and Implementation of the

Local Competition Provisions of the Telecommunications Act of 1996, *Memorandum Opinion and Order and Order on Reconsideration,* FCC 98–224, CC Docket No. 96–98, NSD File No. L–97–42, 63 FR 63613 (rel. September 28, 1998) (''Pennsylvania Numbering Order''). The Pennsylvania Numbering Order delegated additional authority to state public utility commissions to order NXX code rationing, under certain circumstances, in jeopardy situations and encouraged state commissions to seek further limited delegations of authority to implement other innovative number conservation methods.

The Ohio Public Utilities Commission (''OPUC'') has filed a request for delegation of authority to implement number conservation measures in their state. *See* Common Carrier Bureau Seeks Comment on the Ohio Public Utilities Commission's Petition for Delegation of Additional Authority to Implement Number Optimization Measures in the State of Ohio, *Public Notice,* NSD File No. L–99–74, DA 99–2016 (rel. September 29, 1999).

The additional authority sought by the OPUC relates to issues under consideration in the *Numbering Resource Optimization Notice. See* Numbering Resource Optimization, *Notice of Proposed Rulemaking,* CC Docket No. 99–200, FCC 99–122, 64 FR 32471 (rel. June 2, 1999). Because the OPUC faces immediate concerns regarding the administration of number resources in Ohio, we find it to be in the public interest to address this petition as expeditiously as possible, prior to completing the rulemaking proceeding.

We hereby seek comment on the issues raised in the OPUC's petition for delegated authority to implement various area code conservation measures. A copy of this petition will be available during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, SW, Suite CY–A257, Washington, DC 20554, (202) 418–0270.

Interested parties may file comments concerning these matters on or before October 20 1999, and reply comments on or before November 3, 1999. All filings must reference NSD File Number L–99–74 and CC Docket 96–98. Send an original and four copies to the Commission Secretary, Magalie Roman Salas, Portals II, 445 12th Street, SW, Suite TW–A325, Washington, DC 20554 and two copies to Al McCloud, Network Services Division, Portals II, 445 12th Street, SW, Suite 6A–320, Washington, DC 20554.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, including ''get form <your e-mail address>'' in the body of the message. A sample form and directions will be sent in reply. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

This is a ''permit but disclose'' proceeding for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR 1.1200–1.1216. As a ''permit but disclose'' proceeding, *ex parte* presentations will be governed by the procedures set forth in 1.1206 of the Commission's rules applicable to non-restricted proceedings. 47 CFR 1.1206.

Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b)(2). Other rules pertaining to oral and written presentations are set forth in 1.1206(b) as well. For further information contact Jared Carlson of the Common Carrier Bureau, Network Services Division, at (202) 418–2320 or jcarlson@fcc.gov. The TTY number is (202) 418–0484.

Federal Communications Commission.

Kurt A. Schroeder,

Acting Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 99–26512 Filed 10–8–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1292–DR]

North Carolina; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Carolina (FEMA–1292–DR), dated September 16, 1999, and related determinations.

EFFECTIVE DATE: September 29, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 29, 1999, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 51521 *et seq.*), in a letter to James L. Witt, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of North Carolina, resulting from Hurricane Floyd on September 15, 1999, and continuing, is of sufficient severity and magnitude that the provision of additional Federal assistance to ensure public health and safety is warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act'').

Therefore, I amend my declaration of September 16, 1999, to provide that the Federal Emergency Management Agency (FEMA) may reimburse 90 percent of the costs of debris removal (Category A) and emergency protective measures (Category B) under the Public Assistance program, including direct Federal assistance from September 15, 1999 through September 18, 1999. This adjustment of the cost share may be provided to all counties under the major disaster declaration. You may extend this assistance for an additional period of time, if requested and warranted.

Please notify the Governor of North Carolina and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public

Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–26527 Filed 10–8–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3146–EM]

North Carolina; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of North Carolina (FEMA–3146–EM), dated September 15, 1999, and related determinations.

EFFECTIVE DATE: September 29, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 29, 1999, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 51521 *et seq.*), in a letter to James L. Witt, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of North Carolina, resulting from Hurricane Floyd on September 15, 1999, and continuing, is of sufficient severity and magnitude that the provision of additional Federal assistance to ensure public health and safety is warranted under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act'').

Therefore, I amend my declaration of September 15, 1999, to provide that the Federal Emergency Management Agency (FEMA) may reimburse 90 percent of the costs of debris removal (Category A) and emergency protective measures (Category B) under the Public Assistance program, including direct Federal assistance from September 15, 1999 through September 18, 1999. This adjustment of the cost share may be provided to all counties under the emergency declaration. You may extend this assistance for an additional period of time, if requested and warranted.

Please notify the Governor of North Carolina and the Federal Coordinating Officer of this amendment to my emergency declaration.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–26529 Filed 10–8–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1298–DR]

Commonwealth of Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–1298–DR), dated September 22, 1999, and related determinations.

EFFECTIVE DATE: September 22, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 22, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Pennsylvania, resulting from severe flash flooding associated with Tropical Depression Dennis on September 6–7, 1999, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Pennsylvania.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Pennsylvania to have been affected adversely by this declared major disaster:

The counties of Lycoming, Northumberland, Snyder, and Union for Individual Assistance.

All counties within the Commonwealth of Pennsylvania are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–26528 Filed 10–8–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Agency information collection activities: Announcement of Board approval under delegated authority and submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY

Background. Notice is hereby given of the final approval of proposed

information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve 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.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section--Mary M. West--Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829); OMB Desk Officer--Alexander T. Hunt--Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860).

Final approval under OMB delegated authority of the extension for three years, with revision of the following reports:

1. Report title: Application for a Foreign Organization to Become a Bank Holding Company.

Agency form number: FR Y-1f.

OMB Control number: 7100-0119.

Frequency: Event-generated.

Reporters: Foreign Banking Organizations.

Annual reporting hours: 280 hours.

Estimated average hours per response: 70 hours.

Number of respondents: 4 foreign banking organizations.

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 1842(a) and 1844(a) and (c) and by Regulation Y (12 CFR 225.5(a) and 225.11(f)). The information provided in the application is not confidential unless the applicant specifically requests it and the Board approves the request.

Abstract: Under the Bank Holding Company Act, submission of this application is mandatory for any company organized under the laws of a foreign country seeking initial entry into the United States through the establishment or acquisition of a U.S. subsidiary bank. Applicants provide financial and managerial information and must discuss the competitive effects of the proposed transaction and how the proposed transaction would enhance the convenience and needs of the community to be served.

The Board approved several revisions to the FR Y-1f, including clarifying the application to improve consistency with the FR Y-3 and other types of applications filed by foreign banks, deleting items not necessary for all applications of this type, and adding an item on reserve for loan losses. Also, several minor clarifications would be made to the instructions, including the elimination of any outdated references.

2. Report title: Consumer Satisfaction Questionnaire.

Agency form number: FR 1379.

OMB Control number: 7100-0135.

Frequency: Event-generated.

Reporters: Consumers.

Annual reporting hours: 60 hours.

Estimated average hours per response: 20 minutes.

Number of respondents: 180 consumers.

Small businesses are not affected.

General description of report: This information collection is voluntary (15 U.S.C. 57 (a)(f)(1)) and is not given confidential treatment; however, some respondents may provide information not specifically solicited on the form, which may be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552 (b)(4), (b)(6), and (b)(7)).

Abstract: The FR 1379 is used to determine whether complainants are satisfied with the way the Federal Reserve System handled their complaints and to solicit suggestions for improving the complaint-handling process. The revised questionnaire was designed to collect more details related to the information requested in the previous questionnaire and to capture information about the demographic characteristics of consumers who file complaints about state member banks. Previously, the questionnaire was sent to consumers whose complaints against state member banks were referred by the Board of Governors to the appropriate Federal Reserve Bank for resolution. The Board is extending distribution of the questionnaire to all consumers who have complaints against state member banks.

Board of Governors of the Federal Reserve System, October 1, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–26415 Filed 10–8–99; 8:45 am]

Billing Code 6210–01–F

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 October 26, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Carl J. Braun Revocable Trust, and Carl J. Braun, as trustee, both of Waterloo, Illinois; to retain voting shares of PDR Bancshares, Inc., Prairie Du Rocher, Illinois, and thereby indirectly retain voting shares of State Bank of Prairie Du Rocher, Prairie Du Rocher, Illinois.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Piton, Ltd., and Ram's Horn, Ltd., both of Tulsa, Oklahoma; to acquire additional voting shares of Sooner Southwest Bankshares, Inc., Tulsa, Oklahoma, and thereby indirectly acquire additional voting shares of Security First National Bank, Hugo, Oklahoma, and Community Bank, Bristow, Oklahoma.

Board of Governors of the Federal Reserve System, October 5, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–26471 Filed 10–8–99; 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 (12 U.S.C. 1843). 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 November 5, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Brookline Bancorp, MHC, and Brookline Bancorp, Inc., both of Brookline, Massachusetts, to acquire 24.9 percent of the voting shares of Medford Bancorp, Medford, Massachusetts, and thereby acquire shares of Medford Savings Bank, Medford, Massachusetts.

2. Camden National Corporation, Camden, Maine; to acquire 100 percent of the voting shares of KSB Bancorp, Inc., and Kingfield Savings Bank, both of Kingfield, Maine, and subsequently merge KSB Bancorp, Inc., with and into Camden National Corporation.

B. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Tompkins Trustco, Inc., Ithaca, New York; to merge with Letchworth Independent Bancshares Corporation, Castile, New York, and thereby indirectly acquire shares of The Bank of Castile, Castile, New York, and The Mahopac National Bank, Mahopac, New York.

C. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with Premier Bancshares, Inc., Atlanta, Georgia, and thereby indirectly acquire Premier Bank, Atlanta, Georgia; Milton National Bank, Roswell, Georgia; Bank Atlanta, Decatur, Georgia; and Farmers & Merchant Bank, Summerville, Georgia.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. First Delta Bankshares, Inc., Blytheville, Arkansas; to acquire 100 percent of the voting shares of The Merchants and Planters Bank, Manila, Arkansas.

2. St. Elizabeth Bancshares, Inc., St. Elizabeth, Missouri; to become a bank holding company by acquiring at least 95.0 percent of the voting shares of Bank of St. Elizabeth, St. Elizabeth, Missouri.

E. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. First Bancshares Corporation, Gladstone, Michigan; to acquire an additional 9.15 percent, for a total of 19.9 percent, of the voting shares of Baybank Corporation, Gladstone, Michigan, and thereby indirectly acquire Baybank, Gladstone, Michigan.

F. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Paradigm Bancorporation, Inc., Houston, Texas; to acquire 100 percent of the voting shares of Dayton State Bank, Dayton, Texas.

Board of Governors of the Federal Reserve System, October 5, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–26472 Filed 10–8–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Research Agenda Subcommittee of the Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Conference Call Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following conference call meeting.

Name: Research Agenda Subcommittee of the Board of Scientific Counselors.

Time and Date: 1:30 p.m.–3 p.m., October 22, 1999.

Place: The Conference Call will originate from the Agency for Toxic Substances and Disease Registry, in Atlanta, Georgia. Please see **SUPPLEMENTARY INFORMATION** for details on accessing the conference call.

Status: Open to the public, limited only by the availability of telephone ports.

Purpose: This subcommittee will advise the Board of Scientific Counselors and the Agency on areas of emphasis and focus for the ATSDR five-year environmental public health research agenda. The subcommittee will report jointly to the Board of Scientific Counselors and the ATSDR Associate Administrator for Science.

Matters to be Discussed: The conference call is to finalize plans for a workshop with ATSDR partners and community and tribal representatives, and continue planning efforts in the development of the ATSDR five-year environmental public health research agenda.

SUPPLEMENTARY INFORMATION: This conference call is scheduled to begin at 1:30 p.m., EDT. To participate in the conference call, please dial 1–800–713–1971 and enter conference code 233637. You will then be automatically connected to the call.

FOR FURTHER INFORMATION CONTACT: Robert F. Spengler, Sc.D., Executive Secretary, BSC, ATSDR, M/S E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0708.

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: October 4, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 99–26484 Filed 10–8–99; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control And Prevention

[INFO–00–01]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506 (c) (2) (A) of the Paperwork reduction Act of 1995, the

Centers for Disease Control and Prevention is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Silicosis, No Mas!: Evaluation of Materials Used for Outreach to Hispanic Construction Workers—New—National Institute for Occupational Safety and Health (NIOSH)—Over 14,000 workers in the U.S. have died from silicosis and hundreds more add to the death toll each year. Silicosis is the third leading cause of death attributed to occupational diseases in the U.S. In the state of Texas, 300 cases of silicosis and workers exposed to silica were reported between 1990 and 1997. Among these cases, construction was one of the most frequently reported industries. Silicosis was diagnosed in workers as young as 22 years of age, and one third of the cases were found among Hispanic workers, most of whom were diagnosed with silicosis in their thirties.

Despite the alarming number of reports, few attempts have been made to educate construction workers in Texas, particularly workers of Hispanic/Latino decent. An evaluation of the outreach activities conducted during the 1996 National Campaign to Eliminate Silicosis and the Special Emphasis Program (SEP) for silicosis indicated that no effort was undertaken to meet the needs of Hispanic workers. In both events, educational outreach was directed at the mainstream industry, trade associations, employers, and labor unions. Yet, while some educational materials were directly translated into Spanish, no special efforts were directed at Hispanic workers in the course of the campaign nor in the SEP. In addition, the results of 11 focus groups recently conducted in Texas indicated that most Hispanic workers were unaware of silicosis and most knew little about the cause and health effects of silicosis. Barriers to silicosis prevention raised by the focus group participants included lack of knowledge about prevention and lack of proper protective equipment provided by their employers. While most workers in the focus groups could read either Spanish or English, there were individuals who could not read either language. Hence, other mediums of communication, such as audio or video tapes, were recommended to reach the workers.

The goal of the overall project is to increase awareness of and information about the nature, extent, and seriousness of silica exposure, and to increase the use of appropriate engineering controls and respiratory protection among construction workers in Texas. A culturally and linguistically relevant silicosis education and prevention program targeting construction workers will be developed, implemented, and evaluated. The goal of the evaluation is to determine if culturally tailored health messages are more effective than non-culturally tailored health messages in promoting changes in knowledge, attitudes, and behaviors.

Information and data obtained from this evaluation will help direct future outreach efforts in silicosis prevention among the Hispanic population. In addition, results from this study will be used to further current understanding of the effects of cultural values in the design of safety and health messages, thereby helping future development of culturally and linguistically appropriate occupational safety and health messages tailored for the Hispanic population.

The total cost to respondents is $3,366.00.

Respondents	Number of respondents	Number of responses/respondent	Averge Burden per response (in hours)	Total burden (in hours)
Construction Workers	600	1	0.33	198
Total				198

Dated: October 4, 1999.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–26271 Filed 10–8–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability and Injury Prevention and Control Special Emphasis Panel: Research on Laboratory Markers of Recent HIV Infection

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: Disease, Disability and Injury Prevention and Control Special Emphasis Panel: Research on Laboratory Markers of Recent HIV Infection, Program Announcement #00007.

Times and Dates: 8 a.m.–8:30 a.m., November 4, 1999 (Open); 8:30 a.m.–12:30 p.m., November 4, 1999 (Closed).

Place: CDC, Executive Park, Building 4, Conference Room 2400, Atlanta, Ga 30329.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #00007.

For Further Information Contact: Beth Wolfe, Prevention Support Office, National

Center for HIV, STD, and TB Prevention, CDC, Corporate Square Office Park, 11 Corporate Square Boulevard, M/S E07, Atlanta, Georgia 30329, telephone 404/639–8025, e-mail EOW1@cdc.gov.

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: October 4, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–26482 Filed 10–8–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting

Office of the Director, Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: Guide to Community Preventive Services (GCPS) Task Force Meeting:

Times and Dates: 9 a.m.–3:30 p.m., October 13, 1999; 8:30 a.m.–3:15 p.m., October 14, 1999.

Place: The Sheraton Hotel Atlanta, Courtland and International Boulevard, Atlanta, Georgia 30303, telephone (404) 659–6500.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 40 people.

Purpose: The mission of the Task Force is to develop and publish a Guide to Community Preventive Services, which is based on the best available scientific evidence and current expertise regarding essential public health services and what works in the delivery of those services.

Matters to be Discussed: Agenda items include: an overview and update on the organizational changes and structure of the Guide Activity; update on the current dissemination activities and discussion on future initiatives for the Guide; coordination activities with the Clinical Guide; discussion and review of the current Methods issues; and review and discussion of Chapter development progress for the Tobacco Prevention and Control, Cancer, Prevention of Mental Health Disorders and Motor Vehicle Occupant Injury Chapters.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Stephanie Zaza, M.D., M.P.H., Chief, CPS Guide Development Activity, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, CDC, 4770 Buford Highway, M/S K–73, Atlanta, Georgia 30341, telephone 770/488–8189.

Persons interested in reserving a space for this meeting should call 770/488–8189 by close of business on October 8, 1999.

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: October 4, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–26483 Filed 10–8–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0566]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH); Final Guidances entitled ''Stability Testing of New Veterinary Drug Substances and Medicinal Products'' (VICH GL3); ''Stability Testing of New Veterinary Dosage Forms'' (VICH GL4); ''Stability Testing: Photostability Testing of New Veterinary Drug Substances and Medicinal Products'' (VICH GL5); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of three final guidances for industry entitled ''Stability Testing of New Veterinary Drug Substances and Medicinal Products'' (VICH GL3), ''Stability Testing of New Veterinary Dosage Forms'' (VICH GL4), and ''Stability Testing: Photostability Testing of New Veterinary Drug Substances and Medicinal Products'' (VICH GL5). These guidances have been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH) from guidances regarding pharmaceuticals for human use, which were adopted by the International Conference on Harmonisation of Technical Requirements for Approval of Pharmaceuticals for Human Use (ICH). These VICH documents provide guidance on stability testing of new animal drugs and new dosage forms of new animal drugs included as part of new animal drug applications (referred to as registration applications in the guidances) submitted to the European Union, Japan, and the United States.

DATES: You may submit written comments at anytime.

ADDRESSES: Copies of the final guidance documents entitled ''Stability Testing of New Veterinary Drug Substances and Medicinal Products'' (VICH GL3), ''Stability Testing of New Veterinary Dosage Forms'' (VICH GL4), and ''Stability Testing: Photostability Testing of New Veterinary Drug Substances and Medicinal Products'' (VICH GL5) may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm/fda/mappgs/vich.html. Persons without Internet access may submit written requests for single copies of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

You may submit written comments any time on the final guidance documents to the Policy and Regulations Team (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding VICH: Sharon Thompson, Center for Veterinary Medicine (HFV–3), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1798, E-mail, ''sthompso@cvm.fda.gov'', or

Robert C. Livingston, Center for Veterinary Medicine (HFV–1), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–5903, E-mail, ''rlivings@cvm.fda.gov''.

Regarding the guidance documents: William G. Marnane, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6966. E-mail, ''wmarnane@cvm.fda.gov''.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities, industry associations, and individual sponsors to promote the international

harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and reduce the differences in technical requirements for drug development among regulatory agencies.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary pharmaceutical products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary pharmaceutical products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH meetings are held under the auspices of the Office International des Epizooties (OIE). During the initial phase of the VICH, an OIE representative chairs the VICH Steering Committee.

The VICH Steering Committee is composed of member representatives from the European Commission, European Medicines Evaluation Agency; European Federation of Animal Health; Committee on Veterinary Medicinal Products; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: one representative from the government of Australia/New Zealand, and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confederation Mondiale de L'Industrie de la Sante Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Guidance on Stability Testing

These three guidances are entitled ''Stability Testing of New Veterinary Drug Substances and Medicinal Products'' (VICH GL3), ''Stability Testing of New Veterinary Dosage Forms'' (VICH GL4), and ''Stability Testing: Photostability Testing of New Veterinary Drug Substances and Medicinal Products'' (VICH GL5). They have been adapted for veterinary use by the VICH from guidances regarding pharmaceuticals for human use which were adopted by the ICH and published in the **Federal Register** of September 22, 1994 (59 FR 48753), May 9, 1997 (62 FR 25634), and May 16, 1997 (62 FR 27115).

In the **Federal Register** of July 30, 1998 (63 FR 40721), FDA published these VICH guidances in draft form, giving interested persons until August 31, 1998, to submit comments. After consideration of comments received, final draft guidances were submitted to the VICH steering committee. At a meeting held on May 20, 1999, the VICH Steering Committee endorsed the three final draft guidances for industry, VICH GL3, VICH GL4, and VICH GL5.

VICH GL3 addresses the generation of stability information that should be included in submissions for new animal drug applications in the European Union, Japan, and the United States. VICH GL4 is an annex to VICH GL3 and supplements that document by providing specific guidance on what should be submitted regarding stability of new dosage forms by the new animal drug applicant, after the original submission of stability information made in a new animal drug application. VICH GL5 is also an annex to VICH GL3 and supplements that document by providing guidance on basic protocol for photostability testing for new animal drugs. These guidances will be implemented in May of 2000.

These guidances represent the FDA's current thinking on stability testing of new animal drugs and new dosage forms of new animal drugs. They do not create or confer any rights for or on any person and does not operate to bind FDA or the public. You may use alternative methods as long as they satisfy the requirements of applicable statute and regulation.

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to these guidances. The comments in the docket will be periodically reviewed, and, where appropriate, the guidances will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Dated: September 30, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–26501 Filed 10-8-99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4070]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Draft Guidance on ''Quality of Biotechnological Products in the Veterinary Field: Stability Testing of Biotechnological/Biological Products'' (VICH GL17); Availability; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for comment on the draft guidance for industry entitled ''Quality of Biotechnological Products in the Veterinary Field: Stability Testing of Biotechnological/Biological Products'' (VICH GL17). This guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from a guidance regarding pharmaceuticals for human use which was adopted by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). This draft VICH document is intended to provide guidance to applicants regarding the stability studies that should be conducted and the stability data that should be provided in support of new animal drug applications (NADA's) (referred to as marketing applications in the draft guidance) for veterinary biotechnological/biological products that are regulated by FDA.

DATES: Submit written comments by November 12, 1999.

ADDRESSES: Send written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the full title of the draft guidance document and the docket number found in the heading of this document.

Copies of the draft guidance document entitled ''Quality of Biotechnological Products in the Veterinary Field: Stability Testing of Biotechnological/Biological Products'' (VICH GL17) may be obtained on the

Internet from the CVM home page at ''http://www.fda.gov/cvm/fda/TOCs/guideline.html''. Persons without Internet access may submit written requests for single copies of the draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

FOR FURTHER INFORMATION CONTACT:

Regarding VICH: Sharon R. Thompson, Center for Veterinary Medicine (HFV–3), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1798, e-mail ''sthompso@cvm.fda.gov'', or

Robert C. Livingston, Center for Veterinary Medicine (HFV–1), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–5903, e mail ''rlivings@cvm.fda.gov''.

Regarding the guidance document: William G. Marnane, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6966, e-mail ''wmarnane@cvm.fda.gov''.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities, industry associations, and individual sponsors to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical requirements for the development of pharmaceutical products. One of the goals of harmonization is to identify and reduce the differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH meetings are held under the auspices of the Office International des Épizooties (OIE). The VICH Steering Committee is composed of member representatives from the European Commission; the European Medicines Evaluation Agency; the European Federation of Animal Health; Committee on Veterinary Medicinal Products; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand, and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative participates in the VICH Steering Committee meetings.

II. Guidance on Stability Testing of Biotechnological/Biological Products

This draft guidance entitled ''Quality of Biotechnological Products in the Veterinary Field: Stability Testing of Biotechnological/Biological Products'' (VICH GL17), has been adapted for veterinary use by the VICH from a guidance regarding pharmaceuticals for human use which was adopted by the ICH and published in the **Federal Register** of July 10, 1996 (61 FR 36466). At a meeting held on May 18 through 20, 1999, the VICH Steering Committee agreed that VICH GL17 should be made available for public comment.

This draft guidance document is intended to provide guidance to applicants regarding the stability studies that should be conducted and the stability data that should be provided in support of NADA's for veterinary biotechnological/biological products that are regulated by FDA. It is intended to supplement the tripartite VICH GL3 guidance entitled ''Stability Testing of New Veterinary Drug Substances and Medicinal Products.'' Biotechnological/biological products have distinguishing characteristics to which consideration should be given in any well-defined testing program designed to confirm their stability during the intended storage period. For such products, in which the active components are typically proteins and/or polypeptides, maintenance of molecular conformation and biological activity is dependent on noncovalent as well as covalent forces. The products are particularly sensitive to environmental factors such as temperature changes, oxidation, light, ionic content, and shear. In order to ensure maintenance of biological activity and to avoid degradation, stringent conditions for their storage are usually necessary.

Comments about this draft guidance document will be considered by the FDA and the VICH Quality Working Group. Ultimately, FDA intends to adopt the VICH Steering Committee's final guidance and publish it as future guidance.

This draft guidance document has been revised to conform to FDA's good guidance practices (62 FR 8961, February 27, l997) . For example, the document has been designated ''guidance'' rather than ''guideline.'' Because guidance documents are not binding, mandatory words such as ''must,'' ''shall,'' and ''will'' in the original VICH documents have been substituted with ''should.''

This draft guidance represents the agency's current thinking on stability testing of veterinary biotechnological/biological products. The document does not create or confer any rights for or on any person and will not operate to bind FDA or the public. You may use alternate methods as long as they satisfy the requirements of the applicable statute and regulation.

III. Comments

General comments are welcome at any time, however, in order to ensure consideration at the next meeting, interested persons should submit written comments on or before November 12, 1999, to the Dockets Management Branch (address above) regarding this draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 30, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–26502 Filed 10–8–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4071]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); VICH GL18 Draft Guidance on ''Impurities: Residual Solvents;'' Availability; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for comment of the following VICH GL18 draft guidance for industry entitled ''Impurities: Residual Solvents.'' This draft guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from an identically titled guidance regarding pharmaceuticals for human use, which was adopted by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). This draft guidance is intended to recommend acceptable amounts of residual solvents in new animal drugs (referred to as pharmaceuticals or veterinary medicinal products in the draft guidance) for the safety of the target animal as well as for the safety of residues in products derived from treated food-producing animals. It is intended to assist in developing new animal drug applications (referred to as marketing applications in the draft guidance) submitted to the European Union, Japan, and the United States.

DATES: Submit written comments by November 12, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the full title of the draft guidance and the docket number found in brackets in the heading of this document.

Copies of the draft guidance entitled ''Impurities: Residual Solvents'' may be obtained on the internet from the CVM home page at http://www.fda.gov/cvm/fda/TOCs/guideline.html. Persons without internet access may submit written requests for single copies of the draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

FOR FURTHER INFORMATION CONTACT:

Regarding VICH: Sharon R. Thompson, Center for Veterinary Medicine (HFV–3), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1798, e-mail: ''sthompso@cvm.fda.gov'', or

Robert C. Livingston, Center for Veterinary Medicine (HFV–1), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–5903, e-mail: ''rlivings@cvm.fda.gov''.

Regarding the draft guidance: Kevin J. Greenlees, Center for Veterinary Medicine (HFV–150), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6977, e-mail: ''kgreenle@cvm.fda.gov''.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities, industry associations, and individual sponsors to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical requirements for the development of pharmaceutical products. One of the goals of harmonization is to identify and reduce the differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for new animal drugs. The VICH is concerned with developing harmonized technical requirements for the approval of new animal drugs in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH meetings are held under the auspices of the Office International des Épizooties. The VICH Steering Committee is composed of member representatives from the European Commission; the European Medicines Evaluation Agency; the European Federation of Animal Health; the Committee on Veterinary Medicinal Products; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; the Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand, and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative participates in the VICH Steering Committee meetings.

II. Guidance on Acceptable Amounts for Residual Solvents

This VICH GL18 draft guidance entitled ''Impurities: Residual Solvents'' has been adapted for veterinary use by the VICH from a guidance regarding pharmaceuticals for human use which was adopted by the ICH and published in the **Federal Register** of December 24, 1997 (62 FR 67377). At a meeting held on May 18 through 20, 1999, the VICH Steering Committee agreed that VICH GL18 should be made available for public comment.

This draft guidance is intended to recommend acceptable amounts for residual solvents in new animal drugs for the safety of the target animal as well as for the safety of residues in products derived from treated food-producing animals. Comments about this draft guidance will be considered by FDA and the VICH Quality Working Group. Ultimately, FDA intends to adopt the VICH Steering Committee's final guidance and publish it as a future guidance.

This document, developed under the VICH process, has been revised to conform to FDA's good guidance practice regulations (62 FR 8961, February 27, l997). For example, the document has been designated ''guidance'' rather than ''guideline.'' Since guidance documents are not binding, mandatory words such as ''must,'' ''shall,'' and ''will'' in the original VICH document have been substituted with ''should'' unless the reference is to a statutory or regulatory requirement.

This draft guidance represents the agency's current thinking on acceptable amounts of residual solvents in new animal drugs. The document does not

create or confer any rights for or on any person and will not operate to bind FDA or the public. You may use alternative methods as long as they satisfy the requirements of the applicable statute and regulation.

III. Comments

General comments are welcome at any time, however, in order to ensure consideration at the next meeting, interested persons should submit written comments by November 12, 1999, to the Dockets Management Branch (address above) regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 30, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–26503 Filed 10–8–99; 8:45 am]

BILLING CODE 4160–01–F

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, Breast Cancer Surveillance Consortium Expansion.

Date: November 1–2, 1999.

Time: 7:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20853.

Contact Person: Rashmi Gopal, PHD, Scientific Review Administrator, Office of Advisory Activities, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN–Room 609, Rockville, MD 20892–7410, 301/496–2378.

(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: September 30, 1999.

Nancy Middendorf,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–26477 Filed 10–8–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following 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 of Child Health and Human Development Special Emphasis Panel, Training Grants Special Emphasis Panel.

Date: October 19–20, 1999.

Time: 3:30 PM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PHD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

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. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dates: October 4, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–26473 Filed 10–8–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following 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 of Child Health and Human Development Initial Review Group, Medical Rehabilitation Research Subcommittee.

Date: October 29, 1999.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review: National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm 5E03, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 4, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–26474 Filed 10–8–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 Dental Research Special Emphasis Panel 00–06, Review of R01.

Date: November 19, 1999.

Time: 10:00 AM to 11:30 AM

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PHD, Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 00–13, Review of R01 Grant.

Date: November 19, 1999.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PHD, DMD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 00–11, P01 Review.

Date: November 23, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PHD, DMD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Programs Nos. 93.121, Oral Disease and Disorders Research, National Institutes of Health, HHS).

Dated: October 4, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–26475 Filed 10–8–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following 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 of Child Health and Human Development Initial Review Group, Maternal and Child Health Research Subcommittee, Maternal and Child Health Research Subcommittee.

Date: October 19, 1999.

Time: 8:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PhD., Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 4, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–26478 Filed 10–8–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 12–13, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: The Doyle Hotel, 1500 New Hampshire Avenue, N.W., Washington, DC 20036.

Contact Person: Syed Husain, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892–7850, (301) 435–1224.

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 14–15, 1999.

Time: 9:30 AM to 10:30 AM.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1111 30th Street, NW, Washington, DC 20007.

Contact Person: Cheri Wiggs, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–8367.

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 15, 1999.

Time: 3:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

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.

Name of Committee: Surgery, Radiology and Bioengineering Initial Review Group, Diagnostic Radiology Study Section.
Date: October 19–20, 1999.
Time: 8:00 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: St. James Hotel, 950 24th Street, NW, Washington, DC 20037.
Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179.

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.

Name of Committee: Endocrinology and Reproductive Sciences Initial Review Group, Endocrinology Study Section.
Date: October 19–20, 1999.
Time: 8:30 AM to 4:30 PM.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Syed M. Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043, amirs@csr.nih.gov.

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.

Name of Committee: Cardiovascular Sciences Initial Review Group, Pathology A Study Section.
Date: October 19–20, 1999.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW, Washington, DC 20015.
Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 19, 1999.
Time: 5:00 PM to 8:00 PM.
Agenda: To review and evaluate grant applications.
Place: St. James Hotel, 950 24th Street, NW, Washington, DC 20037.
Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, lrosen@csr/nih.gov.

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 19, 1999.
Time: 12:00 PM to 1:00 PM.
Agenda: To review and evaluate grant applications.
Place: Hotel Durant, 2600 Durant Avenue, Berkeley, CA 94704.
Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, (301) 435–1037, dayc@csr.nih.gov.

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.

Name of Committee: Health Promotion and Disease Prevention Initial Review Group, Alcohol and Toxicology Subcommittee 1.
Date: October 20–21, 1999.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda, MD 20892, (301) 435–1169, dowellr@drg.nih.gov.

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.

Name of Committee: Infectious Diseases and Microbiology Initial Review Group, Microbial Physiology and Genetics Subcommittee 2.
Date: October 20–21, 1999.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Rona L. Hirschberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, (301) 435–1150.

This notice is being published less than15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Oncological Sciences Initial Review Group, Radiation Study Section.
Date: October 20–21, 1999.
Time: 8:30 AM to 5:30 PM.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites Hotel, The Chevy Chase Pavilion, 4300 Military Road NW, Wisconsin at Western Avenue, Washington, DC 20015.
Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

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.

Name of Committee: Immunological Sciences Initial Review Group, Immunological Sciences Study Section.
Date: October 21–22, 1999.
Time: 8:00 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: Wyndham Bristol Hotel, 2430 Pennsylvania Ave, NW, Washington, DC 20037.
Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225.

Name of Committee: Biophysical and Chemical Sciences Initial Review Group, Biophysical Chemistry Study Section.
Date: October 21–22, 1999.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Donald Schneider, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 4172, Bethesda, MD 20892, (301) 435–1727.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–BDCN–1 (01)S
Date: October 21–22, 1999.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Riande Continental Miami Beach Hotel, 1825 Collins Avenue, Miami Beach, FL 33139.
Contact Person: Joe Marwah, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

Name of Committee: Biochemical Sciences Initial Review Group, Biochemistry Study Section.
Date: October 21–22, 1999.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Hotel Sofitel, 1914 Connecticut Ave, NW, Washington, DC 20009.

Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739.

Name of Committee: Center for Scientific Review Special Emphasis Panel

Date: October 21–22, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Clarion Hampshire Hotel, 1310 New Hampshire Ave, NW, Washington, DC 20036.

Contact Person: Jay Joshi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7846, Bethesda, MD 20892, (301) 435–1184.

Name of Committee: Center for Scientific Review Special Emphasis Panel

Date: October 21–22, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel, 2649 S. Bayshore Drive, Miami, FL 33133.

Contact Person: Mary Custer PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435–1164.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Initial Review Group, Visual Sciences A Study Section.

Date: October 21–22, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Luigi Giacometti, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 5701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892, (301) 435–1246.

Name of Committee: Infectious Diseases and Microbiology Initial Review Group, Bacteriology and Mycology Subcommittee 1.

Date: October 21–22, 1999.

Time: 8:30 AM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Washington, DC 20007.

Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

Name of Committee: Immunological Sciences Initial Review Group, Experimental Immunology Study Section.

Date: October 21–22, 1999.

Time: 8:30 AM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Calbert A. Laing, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, (301) 435–1221.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 21–22, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Mary Sue Krause, MEDS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7848, Bethesda, MD 20892, (301) 435–0681.

Name of Committee: Biophysical and Chemical Sciences Initial Review Group, Metallobiochemistry Study Section.

Date: October 21–22, 1999.

Time: 8:30 AM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW, Washington, DC 20037.

Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

Name of Committee: Infectious Diseases and Microbiology Initial Review Group, Bacteriology and Mycology Subcommittee 2.

Date: October 21–22, 1999.

Time: 8:30 AM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: William C. Branche, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

Name of Committee: Immunological Sciences Initial Review Group, Allergy and Immunology Study Section .

Date: October 21–22, 1999.

Time: 8:30 AM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Eugene M. Zimmerman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–435–1220.

Name of Committee: Oncological Sciences Initial Review Group, Experimental Therapeutics Subcommittee 1.

Date: October 21–22, 1999.

Time: 8:30 AM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718, perkinsp@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–BDCN–2 (01)S.

Date: October 21–22, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Riande Continental Miami Beach Hotel, 1825 Collins Avenue, Miami Beach, FL 33139.

Contact Person: Herman Teitelbaum, PhdD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, (301) 435–1254.

Name of Committee: Biophysical and Chemical Sciences Initial Review Group, Bio-Organic and Natural Products Chemistry Study Section.

Date: October 21–22, 1999.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Mike Radtke, MHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, radtkem@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 21–22, 1999.

Time: 9:00 AM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Kathryn Meadow-Orlans, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 435–0902.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 22, 1999.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Nancy Hicks, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 22, 1999.

Time: 8:30 AM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Betty Hayden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206,

MSC 7812, Bethesda, MD 20892, (301) 435–1223, haydenb@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 4, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–26476 Filed 10–8–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Call for Public Comment: Changing the Conversation—A National Plan to Improve Substance Abuse Treatment

AGENCY: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, DHHS.

ACTION: Request for public comment on five issues (domains) of concern to the substance abuse treatment field when assessing substance abuse treatment.

SUMMARY: This notice announces that the Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) is formally inviting public comment on five issues (domains) that are of concern to the substance abuse treatment field and require development and exploration. Via several mechanisms, including public hearings, CSAT intends that findings from the exploration of individual domains will ultimately be synthesized into a coherent national strategy to guide substance abuse treatment program and policy development for the future. Individuals and organizations are encouraged to comment in one of several ways: (1) in writing, by submission through the U.S. Mail or courier service; (2) via the National Treatment Plan web site (http://www.NaTxPlan.org); or (3) in person at the remaining public hearing. The final cutoff date for comments is December 1, 1999. This notice discusses the public hearings at which interested individuals/organizations may testify regarding the five substance abuse treatment domains discussed below.

DATES/LOCATIONS: In addition to the public hearings held on July 8 in Hartford, Connecticut; September 16 in Chicago, Illinois; October 18 in Washington, DC; and October 26 in Portland, Oregon; CSAT plans to conduct a public hearing on November 8 in Tampa, Florida. The hearing will be held at the County Center, Corner of Kennedy Boulevard and Pierce Street, Tampa, Florida 33602 on November 8, 1999, between the hours of 8:30 a.m. and 5:00 p.m. Specific details regarding any subsequent hearings will be published in the **Federal Register** approximately one month prior to the hearing.

Requests to testify at the Tampa, Florida, public hearing must be submitted to the addressee indicated below by November 2, 1999. Seating is limited. In the event that interpretive services for the hearing-impaired are required, please indicate these special needs to the addressee.

FOR FURTHER INFORMATION CONTACT: Requests for additional information regarding the hearing and/or testimonies, as well as requests to testify must be addressed to: Marjorie Cashion (Tele: (301) 443–3821; e-mail: mcashion@samhsa.gov; Fax: (301) 480–6077), Center for Substance Abuse Treatment, SAMHSA, Rockwall II Building, Suite 618, 5600 Fishers Lane, Rockville, Maryland 20857.

Written comments (without a request to personally testify) will also be accepted by the above addressee. Written testimonies are limited to five (5) typed pages using 1.5 line spacing and 12 point font.

SUPPLEMENTARY INFORMATION:

Background

Building on recent advances and studies, CSAT has initiated plans to focus on how to apply its extensive knowledge to the practical objective of improving treatment outcomes. The plans include synthesizing current knowledge and recommendations about treatment, service systems, application of best practices, diffusion methods, and organization and financing of substance abuse treatment services. Federal Government and outside experts, as well as the interested public, will explore the current state of the knowledge, resources, needs, and service and organizational capacity. The objective is the culling of priorities for action by the government and by others in the substance abuse treatment field. As noted above, CSAT is inviting the public to comment on five domains as part of the initial step of the plan. The domains, as well as some initial questions for exploration, include:

(1) Closing the Treatment Gap: Where are the gaps? How big are they for different populations? For different types of settings and treatment modalities? How big are gaps in other related systems of care, *e.g.*, welfare, child welfare, housing? What are the policy, organization, and financing issues that must be addressed in the private and public systems, including Medicaid and Medicare, to close the treatment gap?

(2) Reducing Stigma and Changing Attitudes: What are the nature, causes and consequences of addiction stigma? What can CSAT, the treatment field, consumers and families do to address stigma related to addiction, substance abuse treatment and individuals with substance abuse disorders? How do other stigmas impact/compound the stigma of addiction?

(3) Improving and Strengthening Treatment Systems: What are the clinical and organizational challenges facing treatment organizations in the public and private sectors? What can CSAT, the treatment field, consumers and families do to improve and strengthen treatment organizations so that they can adapt to the new imperatives of the changing treatment system, and to improve the relationship between the general health care system and the specialty substance abuse treatment system? What should be done at the State, county and/or local levels to improve and strengthen substance abuse treatment?

(4) Connecting Services and Research: What are the best methods by which CSAT, the treatment field, consumers and families can foster and support evaluation of proven research findings in community-based settings and identification and adoption of best practices?

(5) Addressing Workforce Issues: What are the issues facing clinicians treating addictions? What can CSAT, the treatment field, consumers and families, and professional associations do to foster training, appropriate credentialing, and licensure in all settings in which treatment occurs, and to support treatment organizations in developing appropriate policies for clinical training?

Hearing Format

The hearings will be divided into five segments (*i.e.*, the five domains described above) of approximately 60 minutes each. Each individual/organization participant will be limited to three (3) minutes of oral testimony and five (5) pages of typed testimony per domain. All oral testimonies must be accompanied by a written testimony of no more than five (5) typed pages using 1.5 line spacing and 12 point font. Four copies of written testimonies may either be submitted before the hearing to the addressee listed above or to the

registrar at the hearing. As the hearing schedule allows, unscheduled testimonies will be accommodated. All testimonies (recorded and written) will become a part of the public domain.

Dated: October 4, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–26504 Filed 10–8–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–23]

Notice of Proposed Information Collection: Comment Request; Cooperative Membership Exhibit

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget, (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: December 13, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Office of Business Products, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–3000 for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Cooperative Membership Exhibit.

OMB Control Number, if applicable: 2502–0025.

Description of the need for the information and proposed use: The form is necessary to provide evidence to HUD of compliance of selling the property or project to an eligible cooperative group. The form is used to list prospective cooperative members. HUD uses the form to ensure that the property or project is being sold to an eligible cooperative group.

Agency form numbers, if applicable: HUD–93203.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 300; frequency of response is 1; and the estimated hours of response are: 5 hours per response; and the total annual burden hours requested is 150.

Status of the proposed information collection: Reinstatement without change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 30, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 99–26506 Filed 10–8–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4410–FA–09]

Announcement of Funding Awards for the Brownfields Economic Development Initiative Program; Fiscal Year 1999

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Super Notice of Funding Availability (SuperNOFA) for the Brownfields Economic Development Initiative (BEDI) Program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mr. Donner Buchet, Director, Community and Economic Development Services, Office of Community Planning and Development, 451 7th Street, SW, Washington, DC 20410; telephone (202) 708–2290 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1–800–877–8339. For general information on this and other HUD programs, call Community Connections at 1–800–998–9999 or visit the HUD Website at http://www.hud.gov.

SUPPLEMENTARY INFORMATION: The Brownfields Economic Development Initiative (BEDI) program was enacted in 1998 and is intended to complement and enhance the Section 108 Loan Guarantee program. The BEDI program is authorized under Section 108(q), Title I, Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301–5320) (the Act); 24 CFR part 570. The competition was announced in the SuperNOFA published in the **Federal Register** on February 26, 1999 (64 FR 9801). Applications were rated and selected for funding on the basis of selection criteria contained in that Notice.

BEDI is designed to help cities redevelop abandoned, idled, or underutilized industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. BEDI provides funding to local governments to be used in conjunction with Section 108 loan guarantees to finance redevelopment of brownfield sites. The purpose of BEDI grant funds is to minimize the potential loss of future CDBG allocations by: strengthening the economic feasibility of the projects financed with Section 108 funds; directly enhancing the security of the guaranteed loan; or through a combination of these or other risk mitigation techniques. BEDI and Section 108 loan guarantee funds are intended to finance projects and activities that will provide near-term results and demonstrable economic

benefits, such as job creation and increases in the local tax base.

The Catalog of Federal Domestic Assistance number for this program is 14.246.

A total of $25,000,000 was awarded to 21 projects nationwide. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987. 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A to this document.

Dated: October 5, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

Appendix A—List of Awardees for Grant Assistance Under the FY 1999 Brownfields Economic Development Initiative Program Funding Competition by Name and Address

Arizona

City of Phoenix
Office of Environmental Programs
200 W. Washington Street, 14th Floor
Phoenix, AZ 85003
Project: East Washington Fluff Project
Grant Amount: $1,210,000

California

City of Los Angeles
Mayor's Office of Economic Development
200 N. Main Street Room 800
Los Angeles, CA 90012
Project: Cornfield Site/River Station Industrial Park
Grant Amount: $1,250,000

City of Richmond
Richmond Redevelopment Agency 330 25th Street
Richmond, CA 94804
Project: Ford Point Cyber Village
Grant Amount: $1,500,000

Los Angeles County
2 Coral Circle
Monterey Park, CA 91755
Project: Golden Springs Business Center
Grant Amount: $1,750,000

Connecticut

City of New Haven
165 Church Street
New Haven, CT 06510
Project: Clock Factory Redevelopment Project
Grant Amount: $490,000

Florida

City of St. Petersburg
Economic Development and Property Management
1 Fourth Street North, 9th Floor
St. Petersburg, FL 33701
Project: Dome Industrial Park Pilot Project
Grant Amount: $1,000,000

Dade County
Office of Community and Economic Development
111 NW 1st Street, 29th Floor
Miami, FL 33169
Project: Brownfields Revolving Loan Fund
Grant Amount: $1,750,000

Louisiana

City of New Orleans
Office of Urban Development
1300 Perdido
New Orleans, LA 70112
Project: American Can Renewal Project
Grant Amount: $1,000,000

City of Shreveport
1234 Texas Avenue, P.O. Box 31109
Shreveport, LA 71130
Project: Shreve Square Development in the Cross Bayou/Riverfront Development District
Grant Amount: $1,000,000

Maryland

City of Baltimore
Department of Housing and Community Development
417 E. Fayette Street, 13th Floor
Baltimore, MD 21202
Project: Chesapeake Business Center
Grant Amount: $975,000

Massachusetts

City of Boston
Boston Redevelopment Agency
One City Hall Plaza
Boston, MA 02114
Project: Modern Electroplating Brownfields Project
Grant Amount: $1,750,000

City of Everett
Mystic Valley Development Corporation
484 Broadway
Everett, MA 02149
Project: Telecom City Advanced Manufacturing Center
Grant Amount: $1,200,000

New Jersey

City of Jersey City
Department of Housing, Economic Development and Commerce
280 Grove Street
Jersey City, NJ 07302
Project: Morris Canal Industrial Park
Grant Amount: $1,750,000

New York

City of Rochester
Economic Development Department
30 Church Street, Room 005A
Rochester, NY 14614
Project: Germanow-Simon Expansion
Grant Amount: $500,000

City of Syracuse
Office of Community and Economic Development
219 City Hall
233 E. Washington Street
Syracuse, NY 13202
Project: Winkleman Site Redevelopment/Crossroads Industrial Park
Grant Amount: $875,000

City of Yonkers
Office of Economic Development
City Hall Room 32
Yonkers, NY 10701
Project: Nepperhan Valley Biotechnology Center
Grant Amount: $1,000,000

North Carolina

City of Winston-Salem
Business Development Office
P.O. Box 2511
Winston-Salem, NC 27102
Project: Airport Business Park
Grant Amount: $1,000,000

Ohio

City of Lorain
Department of Community Development
200 West Erie Avenue
Lorain, OH 44052
Project: Colorado Industrial Park Expansion
Grant Amount: $500,000

Oklahoma

City of Oklahoma City
Public Works Department
420 West Main, Suite 700
Oklahoma City, OK 73102
Project: National American Cultural and Educational Center
Grant Amount: $1,750,000

Washington

City of Seattle
Office of Economic Development
600 Fourth Avenue
Seattle, WA 98104
Project: Rainier Court Shopping Center
Grant Amount: $1,750,000

West Virginia

City of Wheeling
Economic and Community Development Department
1500 Chapline Street
Wheeling, WV 26003
Project: Celeron Plaza Project
Grant Amount: $1,000,000

[FR Doc. 99–26505 Filed 10–8–99; 8:45 am]
BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4514–N–02]

Notice of Responsibility Within HUD for Civil Rights Front-End Reviews of HUD Programs

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to advise public housing agencies, community planning and development entitlement jurisdictions, owners and managers of assisted housing, other interested parties and members of the public of: the change of responsibility within HUD for civil rights front-end reviews for HUD programs; technical amendments made to HUD's regulations on Compliance Procedures for Affirmative Fair Housing Marketing; and revisions that HUD will make to its handbook on Implementing Affirmative Fair Housing Marketing Requirements.

DATES: *Effective Date:* October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Pamela Walsh, Office of Programs, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2288 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Each HUD program discipline (i.e., the Office of Community Planning and Development, the Office of Public and Indian Housing, and the Office of Housing) has lead responsibility for conducting ''civil rights'' front-end reviews for the programs it administers. These reviews are conducted by program offices designated as Fair Housing ''Monitoring'' Offices. A front-end review is the first part of the civil rights program review process, and requires a review of a submission made to HUD by a HUD constituent prior to the submission's approval by HUD.

Civil rights front-end reviews encompass confirming the completeness of the review (i.e., that all required items have been fully completed, signed when applicable, and submitted) and, with respect to fair housing and equal opportunity matters, examining submissions for outside civil rights findings and issues, including fair housing marketing plans, site and neighborhood standards, or complete and accurate applicant certification forms. These reviews are conducted using protocols that are developed by the Office of Fair Housing and Equal Opportunity in consultation with the respective program office.

When a monitoring office conducts a front-end review, the monitoring office's role is limited to screening for errors. The monitoring office is not responsible for making a determination of compliance with the law. When, during a routine front-end review, a civil rights issue is raised that the program discipline cannot resolve through its routine processing practices, the program discipline shall refer the matter to the local Fair Housing and Equal Opportunity Hub (Boston, New York City, Philadelphia, Atlanta, Chicago, Fort Worth, Kansas City, Denver, San Francisco, and Seattle). These offices have been designated as ''Civil Rights/Compliance Reviewing Offices,'' and will determine what further actions, if any, are needed.

HUD's Office of Fair Housing and Equal Opportunity will work with the program disciplines to (1) develop any ''processing'' documents needed for conducting front-end reviews, and (2) a quality control system for assuring that the program disciplines are implementing their civil rights-related program responsibilities. The Office of Fair Housing and Equal Opportunity retains statutory and regulatory authority for conducting civil rights compliance reviews and civil rights investigations, and for determining compliance with the civil rights regulations and statutes.

Part 108 of HUD's regulations (24 CFR part 108) establishes compliance procedures for affirmative fair housing marketing, and the regulations place responsibility for monitoring (which includes front-end review of Affirmative Fair Housing Marketing Plans (AFHMPs)) in the Area Office of Fair Housing and Equal Opportunity. With the implementation of HUD 2020 Management Reform, the review of the AFHMPs now rest with the eighteen (18) Housing Hubs within the Office of Housing.

On August 12, 1999, HUD published a rule that makes technical amendments to its regulations in part 108 to reflect the transfer of responsibility for front-end reviews from the Office of Fair Housing and Equal Opportunity to the Monitoring Offices. This notice now designates 18 Housing Hubs (Boston, Buffalo, New York City, Philadelphia, Baltimore, Greensboro, Atlanta, Jacksonville, Chicago, Columbus, Detroit, Fort Worth, Kansas City, Minneapolis, Denver, Los Angeles, San Francisco, and Seattle) as monitoring offices for purposes of carrying out the monitoring responsibilities in 24 CFR part 108. Developers and/or sponsors must now submit their AFHMPs to the Monitoring Offices.

This notice also designates FHEO's Hubs (Boston, New York City, Philadelphia, Atlanta, Chicago, Fort Worth, Kansas City, Denver, San Francisco, and Seattle) as Civil Rights/Compliance Reviewing Offices for purposes of carrying out the civil rights compliance review responsibilities in 24 CFR part 108

Chapter 3 (on Processing of Affirmative Fair Housing Marketing Plans and Related Documents) of the Fair Housing and Equal Opportunity Handbook 8025.1, titled ''Implementing Affirmative Fair Housing Marketing Requirements'' is undergoing technical amendments to reflect the changes discussed above. Appendix 10 (AFHM Plans Checklist for Completeness) of this handbook, however, will remain the same.

Again, the purpose of this notice is to further disseminate information about the change in responsibilities for civil rights front-end reviews for HUD programs, and technical changes recently made, and to be made, to the applicable HUD regulations and handbooks. The procedures in the regulations and handbook remain the same. The personnel, however, responsible for carrying out the reviews has changed.

Dated: October 4, 1999.

Eva M. Plaza,

Assistant Secretary for Fair Housing and Equal Opportunity.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–26508 Filed 10–8–99; 8:45 am]

BILLING CODE 4210–28–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section

10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.).

Permit No. TE–795602

Applicant: Mevatech Corporation, White Sands Missile Range, New Mexico.

Applicant requests authorization for scientific research and recovery purposes to conduct population surveys and photograph aplomado falcons (*Falco femoralis septentrionalis*) in various New Mexico counties.

Permit No. TE–16215

Applicant: Andrea R. Wickham-Rowe, Port Aransas, Texas.

Applicant requests authorization for scientific research and recovery purposes to rehabilitate the Kemp's ridley sea turtle (*Lepidochelys kempii*), loggerhead sea turtle (*Caretta caretta*), hawksbill sea turtle (*Eretmochelys imbricata*), green sea turtle (*Chelonia mydas*), and the leatherback sea turtle (*Dermochelys coriacea*) brought in from in and around the Texas Gulf Coast.

Permit No. TE–823354

Applicant: Angelo State University, Department of Chemistry, San Angelo, Texas.

Applicant requests authorization for scientific research and recovery purposes to conduct population surveys, map territory distribution, capture (using mist nets), band (Master Banding Permit 22280), measure and immediately release unharmed golden-cheeked warblers (*Dendroica chrysoparia*) in Real County, Texas.

Permit No. TE–004439

Applicant: Albuquerque Biological Park & Aquarium, Albuquerque, New Mexico.

Applicant requests authorization for scientific research and recovery purposes to collect the Socorro isopod (*Thermosphaeroma* (=*exosphaeroma*) *thermophilum*) and the Socorro springsnail (*Pyrgulopsis neomexicana*), and the Alamosa springsnail (*Tryonia alamosae*) all in Socorro County, New Mexico.

Permit No. TE–017728

Applicant: Cameron L. Johnson, Tucson, Arizona.

Applicant requests authorization for scientific research and recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) in various counties in Arizona.

Permit No. TE–825473

Applicant: Texas Department of Transportation, Austin, Texas.

Applicant requests authorization for scientific research and recovery purposes to conduct presence/absence surveys for Texas wild rice (*Zizania texana*), northern aplomado falcon (*Falco femoralis septentrionalis*), bald eagles (*haliaeetus leucocephalus*) and whooping cranes (*Grus americana*).

Permit No. TE–017942

Applicant: Arizona Biological Consultants, Peoria, Arizona.

Applicant requests authorization for scientific research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*), lesser long-nosed bats (*Leptonycteris curasoae*), and Mexican long-nosed bats (*Leptonycteris nivalis*) in Arizona.

DATES: Written comments on these permit applications must be received on or before November 12, 1999.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: The U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Bryan Arroyo,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–26485 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 30390]

Public Land Order No. 7414; Withdrawal of National Forest System Land for Hassayampa River Riparian Corridor; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,677.25 acres of National Forest System land from location and entry under the United States mining laws for 20 years to protect the Hassayampa River Riparian Corridor. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Beverley Everson or Doug Franch, Prescott National Forest, 344 S. Cortez Street, Prescott, Arizona 86303, 520–445–7253.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, to protect the Hassayampa River Riparian Corridor:

Gila and Salt River Meridian

Prescott National Forest

T. 13 N., R. 2 W.,
Sec. 31, lot 20;
Sec. 32, lots 13 to 20, inclusive;
Sec. 33, lots 11 to 14, inclusive.
T. 12½N., R. 2W.,
Sec. 20, lots 1 to 4, inclusive;
Sec. 21, lots 1 to 4, inclusive, SE¼SW¼SE¼, and SE¼SE¼;
Sec. 22, SW¼SW¼ and SE¼SW¼;
Sec. 26, lot 4, lots 8 to 17, inclusive, and MS 4051;
Sec. 27, lots 1 to 6 inclusive, W½NW¼, and MS 4051;
Sec. 35, lots 2, 3, and 9, and MS 2648.
The area described contains 1,677.25 acres in Yavapai County.

2. The withdrawal made by this order does not alter the applicability of those land laws governing the use of the National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review

conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: October 5, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–26678 Filed 10–8–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–030–1430–00–2Z; AZA–20666]

Notice of Realty Action Modified Competitive Sale of Public Lands in Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, modified competitive sale.

SUMMARY: The following public lands have been found suitable for a modified competitive sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at not less than the estimated fair market value. The land will not be offered for sale for at least 60 days after the date of this notice.

Gila and Salt River Meridian, Arizona

T. 20 N., R. 17 W.
Sec. 8, lot 3.

Consisting of 3.21 acres.

SUPPLEMENTARY INFORMATION: The above described land is being offered as a modified competitive sale, sealed bid and oral auction, to the adjoining land owners for not less then appraised value of $51,360. This land will be offered to the adjacent private landowners only due to the lack of legal access. All bids must be submitted to the Kingman Field Office, 2475 Beverly Ave, Kingman, Arizona 86401, by no later than 4:00 p.m. MST, December 10, 1999. Sealed bid forms and envelopes will be provided to all prospective bidders prior to the sale. Bids must be for not less than the appraised value specified above. Each bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the USDI, Bureau of Land Management, for not less than 10 percent of the amount bid. The highest qualified sealed bid will determine the starting monetary point for oral bidding. Oral bids must be in increments of $100.00.

The lands described above is hereby segregated from appropriation under the public land laws including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

A successful bid for a parcel will qualify the prospective purchaser to make application for conveyance of those mineral interests offered under the authority of Section 209(b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719). In addition to the bid price, a non-refundable fee of $50 will be required for purchase of the mineral interests. Those mineral interests to be conveyed simultaneously with the sale of the land have been determined to have no known mineral value.

Federal law requires that bidders must be U.S. citizens and 18 years of age or older. Proof of citizenship shall accompany the bid. If two or more valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by supplemental oral bidding. The remainder of the full price bid shall be paid within 180 days of the date of the sale. Failure to pay the full price within the 180 days shall disqualify the apparent high bidder and cause the bid deposit to be forfeited to the U.S. Bureau of Land Management. The conveyance document, when issued, will contain certain reservations to the United States and will be subject to any existing rights-of-way and any other valid existing rights.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Kingman Field Office, 2475 Beverly Ave., Kingman, Arizona 86401. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Janna Paronto, Land Law Examiner, at (520) 692–4449.

Dated: September 23, 1999.

John C. Jamrog,

Program Manager, Nonrenewable.

[FR Doc. 99–26465 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05;N–59385]

Notice of Realty Action: Lease/ Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Las Vegas proposes to use the land for a Public Park.

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.
Sec. 4.
Government Lots 17–19, 22, 23 and 35.
Containing *31.74* acres.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/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 or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. An easement 10 feet in width along the North boundary of lots 17–19, 30 feet in width along the South boundary of lots 17–19, 30 feet in width along the North boundary of lots 22 and 23, 20 feet in width along the West boundary of lot 17, 20 feet in width along the South boundary of lots 22 and 23, 40 feet in width along the South boundary of lot 35, and 30 feet in width along the West boundary of lot 35 in favor of the City of Las Vegas for roads, public utilities and flood control purposes.

2. Those rights for public utility purposes which have been granted to the Nevada Power Company by Permit

No. N–62042, and to the Las Vegas Valley Water District by Permit No. N–53360 under the Act of October 26, 1976 (FLPMA). Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, 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 lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal 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 lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a Public Park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, 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 Public Park.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: September 28, 1999.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 99–26462 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–940–5440–00 J010; UTU–45824 and UTU–52877]

Recreation and Public Purposes Classification Terminations; Utah

AGENCY: Burau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Two classifications for Recreation and Public Purposes (R&PP) are being terminated in Washington County, Utah. The lessees in both cases have relinquished all or a portion of their R&PP leases, and the lands are needed for other purposes. The lands are to be included in land exchanges to acquire private lands with high public values.

FOR FURTHER INFORMATION CONTACT: Randy Massey, St. George Field Office, 345 E. Riverside Drive, St. George, Utah 84790.

SUPPLEMENTARY INFORMATION: On November 2, 1983, 10 acres of public land were classified for R&PP purposes (UTU–45824). Subsequently, a R&PP lease was issued to the Washington County School District for a school site on December 13, 1983. The legal description of the property is:

Salt Lake Meridian, Utah

T. 43 S., R. 16 W.
Sec. 1, lot 16.
Containing 10 acres more or less.

By letter dated July 11, 1997, the School District relinquished their lease, and the relinquishment was accepted by the Bureau of Land Management.

On May 28, 1997, 880.26 acres of public land were classified for R&PP purposes (UTU–52877). Subsequently, a RPP lease was issued to the Washington County Water Conservancy District for the Quail Creek Recreation Area on June 10, 1997. By letter dated April 9, 1999, the Conservancy District relinquished it's interest in 26.18 acres of the leased land, and the relinquishment was accepted by the Bureau of Land Management. The legal description of the property is:

Salt Lake Meridian, Utah

T. 41 S., R. 14 W.
Sec. 26, lot 20.
Containing 26.18 acres.

Effective the date of publication of this notice, the Recreation and Public Purposes classification for the two parcels of land described above, is hereby terminated.

At 8 a.m. on the date of publication of this notice, the lands described above will be opened to the operation of the public land laws generally, subject to valid existing rights, other segregations of record, and the requirements of applicable law. At 8 a.m. on the date of publication of this notice, the lands described above will be opened to location and entry under the United States mining laws, subject to valid existing rights, other segregations of record, and the requirements of applicable law. The lands described above are currently segregated for exchange.

Dated: September 23, 1999.

James D. Crisp,

St. George Field Office Manager.

[FR Doc. 99–26461 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–00: GP9–0340]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T.8 S., R. 7 W.
Accepted September 20, 1999.
T. 8 S., R. 8 W.
Accepted September 20, 1999.

Washington

T. 35 N., R. 25 E.
Accepted September 24, 1999.

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State

Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey, and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 S.W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: September 27, 1999.

Robert D. DeViney, Jr.,

Branch of Realty and Records Services.

[FR Doc. 99–26463 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Designation of Potential Wilderness as Wilderness, Fire Island National Seashore

AGENCY: National Park Service, Interior.

ACTION: Notice.

The Otis Pike Fire Island High Dunes Wilderness Act, Public Law 96–585, December 23, 1980, designated approximately 1,363 acres as wilderness in the Fire Island National Seashore and further identified 18 acres as potential wilderness additions. The National Park Service (NPS) described the wilderness and potential wilderness areas on maps entitled ''Wilderness Plan-Fire Island National Seashore,'' dated December, 1980. In November, 1983 the NPS adopted the ''Wilderness Management Plan, Fire Island National Seashore'' which also contained the legal description of the wilderness boundaries and a map showing the wilderness and the potential wilderness areas.

Section (c) of Public Law 96–585 provided a process whereby potential wilderness additions within the Fire Island National Seashore would become designated wilderness upon publication in the **Federal Register** of a notice by the Secretary of the Interior that all uses on the land prohibited by the Wilderness Act (Public Law 88–577) have ceased.

The NPS has determined that all of the Wilderness Act prohibited activities of the following described designated potential wilderness additions have ceased. Such lands are entirely in Federal ownership. In that these parcels now fully comply with the instructions contained in Pub. L. 96–585, this notice hereby designates the identified 17 acres of potential wilderness within Fire Island National Seashore as designated wilderness. This acreage will be added to the National Wilderness Preservation System and bring the total wilderness acreage of the Fire Island National Seashore to 1,380 acres, more or less. There remains 1 acre, more or less, of potential wilderness additions within Fire Island National Seashore.

The potential wilderness lands hereby designated as wilderness are described as:

(1) The sites of former residential structures and their associated access roads, further identified as;

(a) seven (7) sites at Long Cove

(b) thirteen (13) sites at Whalehouse Point

(c) one (1) site at Old Inlet

(2) the vehicle cuts at long Cove, Whalehouse Point, and Old Inlet, and the sand roads leading from them to the access roads to the former residences at Long Cove, Whalehouse Point, and Old Inlet, and the access road to Watch Hill.

(3) The sites of the former Watch Hill horse stable and maintenance yard, and the access roads leading to them.

(4) The former Long Cove boardwalk nature trail.

The area of 1 acre, more or less, including the boardwalk nature trail at Smith point and the boardwalk, dune crossing and bathhouse at Old Inlet will remain as potential wilderness until such time as existing non-conforming uses are terminated.

The maps and legal description are on file at the headquarters of the Fire Island National Seashore, 120 Laurel Street, Patchogue, NY 11772, and at the Office of the Director, 1849 C Street NW, Washington DC 20240

Dated: October 4, 1999.

Robert Stanton,

Director, National Park Service.

[FR Doc. 99–26563 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Tallgrass Prairie National Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for a meeting of the Tallgrass Prairie National Preserve Advisory Committee. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

DATE, TIME, AND ADDRESS: Wednesday, October 27, 1999; 8:30 a.m. until business and public comment are complete; Chase County Community Building, Swope Park, Walnut and County Road, Cottonwood Falls, Kansas.

This business meeting is open to the public. Space and facilities to accommodate members of the public are limited and people will be accommodated on a first-come, first-served basis. An agenda will be available from the Superintendent one week prior to the meeting. Attendees are encouraged to participate in these meetings. If you would like to address the committee, please contact the Superintendent by October 19, 1999, at the address or telephone number listed below requesting that your name be added to the agenda. Depending on the number of requests, the Superintendent has the right to limit the amount of time each participant is allowed to address this committee.

FOR FURTHER INFORMATION CONTACT: Steve Miller, Superintendent, Tallgrass Prairie National Preserve, P.O. Box 585, Cottonwood Falls, Kansas 66845; or telephone him at 316–273–6034.

SUPPLEMENTARY INFORMATION: The Tallgrass Prairie National Preserve was established by Public Law 104–333, dated November 12, 1996.

Dated: September 30, 1999.

David N. Given,

Deputy Regional Director, Midwest Region.

[FR Doc. 99–26561 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 2, 1999. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written

comments should be submitted by October 27, 1999.

Beth Boland,

Acting Keeper of the National Register.

Arizona

Yavapai County

Fort Whipple—Department of Veterans Affairs Medical Center Historic District, 500 AZ 89 N, Prescott, 99001274

Delaware

New Castle County

Fort Dupont Historic District, DE 9, S of Chesapeake and Delaware Canal, Delaware City, 99001275

Wilmington Rail Viaduct, Amtrak's NE corridor through Wilmington, Wilmington, 99001276

Idaho

Bonner County

Sandpoint High School, (Public School Buildings in Idaho MPS), 102 S. Euclid Ave., Sandpoint, 99001277

Canyon County

Obendorf, George, Gothic Arch Truss Barn, 24047 Batt Corner Rd., Wilder vicinity, 99001278

Maryland

Queen Anne's County

Keating House, 208 S. Liberty St., Centreville, 99001281

Washington County

Piper House, 200 E. Main St., Sharpsburg vicinity, 99001279

Baltimore Independent City

Proctor and Gamble Baltimore Plant, 1422 Nicholson St., Baltimore, 99001280

Mississippi

Franklin County

Clear Springs Recreation Area, Area of Clear Springs Lake, Roxie vicinity, 99001282

Scott County

Moore Lookout Tower, Scott Cty. Rd. 503, Forest vicinity, 99001283

North Carolina

Moore County

Jugtown Pottery, 330 Jugtown Rd., Seagrove vicinity, 99001284

Oregon

Marion County

Oregon Pacific Railroad Linear Historic District, Roughly a 20 mi. section of the Old Railroad Grade bet. Idanha and The Cascade Range summit, Santiam Junction vicinity, 99001285

Union County

Hudelson, A.B. and Son, Building, 200 E St., North Powder, 99001286

Pennsylvania

Elk County

Johnsonburg Commercial Historic District, Roughly along Center, Bridge, and Market Sts., Johnsonburg, 99001290

Lehigh County

Helfrich's Springs Grist Mill (Boundary Increase), 506 Mickley Rd., Whitehall Township, 99001288

Luzerne County

Bear Creek Village Historic District, PA 115 at Bear C reek Dam, Bear Creek Village, 99001287

Philadelphia County

Pennsylvania Railroad Freight Building, 3118–3198 Chestnut St., Philadelphia, 99001291

York County

United Cigar Manufacturing Company, 201 N. Penn St., York City, 99001289

Texas

Dallas County

Dallas Tent and Awning Building, 3401 Commerce St., Dallas, 99001292

Utah

Duchesne County

Indian Canyon Ranger Station, UT 33, Duchesne Ranger District, Duchesne vicinity, 99001294

Stockmore Ranger Station, UT 30, Duschesne ranger District, Tabiona vicinity, 99001293

Vermont

Bennington County

Bradford, W.H., Hook and Ladder Fire House, 212 Safford St., Bennington, 99001295

[FR Doc. 99–26564 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Director's Orders 53, the Revised Guidance for All Special Park Uses in Units of the National Park Service

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The National Park Service (NPS) has available for public review, the proposed revised guidance document for all special park uses in units of the NPS. This information was developed to provide guidance to managers in all units of the National Park System who deal with requests for special park uses including but not limited to special events, utility rights-of-way including those for telecommunication antenna sites, commercial filming and photography, and other uses. At the end of the review period, this material will appear as a Director's Order for Special Park Uses distributed to all NPS units. This document will provide guidance to park managers concerning all aspects of requests for special park uses in the National Park System, from the initial contact, through on-scene protection of resources, and ending with complete recovery and restoration of the site. This document will supersede and replace the existing Director's Order 53A dealing only with telecommunications, and consist of a concise treatment of the entire subject of special park uses.

Copies of the proposed guidance document will be made available upon request by writing: Chip Davis, National Park Service, Ranger Activity Division, 1849 C St. NW, Suite 7408, Washington, DC 20240, or by calling 202–208–4874.

DATES: Written comments will be accepted through November 12, 1999.

ADDRESSES: Comments should be addressed to: Dick Young, Special Park Uses Program Manager, C/O Colonial NHP, P.O. Box 210, Yorktown, VA 23690.

FOR FURTHER INFORMATION CONTACT: Dick Young at 757–898–7846, or 757–898–3400, ext. 51.

Dated: October 1, 1999.

Chris Andress,

Chief, Ranger Activities Division.

[FR Doc. 99–26562 Filed 10–8–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1253]

RIN 1121–ZB87

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of Meeting.

SUMMARY: A meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will take place in the District of Columbia on Friday, November 5, 1999, beginning at 1:00 p.m. and ending at 3:00 p.m. (EDT). This advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet in the Mansfield Room (S207) at the United States Capitol Building, Washington, DC 20510. The Coordinating Council, established

pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This meeting will be open to the public. Members of the public who are attending the meeting should notify the Juvenile Justice Resource Center by 5:00 p.m. (EDT) on Monday, October 25, 1999. The contact person is Nichelle Millings, who can be reached at (301) 519–5901. For security purposes, picture identification will be required.

Shay Bilchik,

Administrator Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–26595 Filed 10–8–99; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

Notice of Changes in Subject of Meeting and Cancellation of Closed Meeting

The National Credit Union Administration Board determined that its business required the deletion of the following two items from the previously announced closed meeting (Federal Register, Vol. 64, page 54364, Wednesday, October 6, 1999) scheduled for Wednesday, October 6, 1999.

1. Field of Membership Appeal. Closed pursuant to exemption (8).

2. Modification of NCUA's Indemnification Policy. Closed pursuant to exemptions (2) and (6).

The Board voted unanimously that agency business required that these items be deleted from the agenda with less than the usual seven days notice and that no earlier announcement of these changes was possible.

The previously announced items were the same two items deleted from the agenda. Since those were the only two items on the agenda, there being no agenda, the closed meeting was canceled.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–26677 Filed 10–7–99; 2:17 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On August 17, 1999, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on October 4, 1999 to the following applicants:

David Ainley: Permit No. 2000–007
John E. Carlstrom: Permit No. 2000–010

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 99–26467 Filed 10–8–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, October 19, 1999.

PLACE: NTSB Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, DC 20594.

STATUS: The first item is open to the public. The last four items are closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

7205 Response to Safety Recommendation A–95–116 from Federal Aviation Administration regarding information to be retained in pilot records.

6989 Opinion and Order: Administrator v. Svensson, Docket SE–14843; disposition of the Administrator's appeal.

7148A Opinion and Order: Administrator v. Werth, Docket SE–15013; disposition of respondent's petition for reconsideration.

7176 Opinion and Order: Administrator v. Macko, Docket SE–15188; disposition of respondent's appeal.

7177 Opinion and Order: Administrator v. Livingston, Docket 254–EAJA–SE–14331; disposition of the Administrator's appeal.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodation should contact Mrs. Barbara Bush at (202) 314–6220 by Friday, October 15, 1999.

FOR MORE INFORMATION CONTACT: Rhonda Underwood (202) 314–6065.

Dated: October 7, 1999.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 99–26698 Filed 10–7–99; 2:43 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

FirstEnergy Nuclear Operating Company, et al.; Order Approving Transfer of License And Conforming Amendment

I

The Cleveland Electric Illuminating Company (CEICO), Duquesne Light Company (DLC), Ohio Edison Company, OES Nuclear, Inc., Pennsylvania Power Company (Penn Power), Toledo Edison Company, and FirstEnergy Nuclear Operating Company (FENOC) are the licensees of the Perry Nuclear Power Plant, Unit 1 (PNPP). FENOC, the only non-owner licensee, acts as agent for the owners and has exclusive responsibility for, and control over, the physical construction, operation, and maintenance of PNPP as reflected in Operating License No. NPF–58. With the exception of DLC, FENOC and each of the remaining licensees are wholly owned subsidiaries of FirstEnergy Corporation (FE). The U.S. Nuclear Regulatory Commission (NRC) issued Operating License No. NPF–58 on March 18, 1986, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located on the shore of Lake Erie in Lake County, Ohio, approximately 35 miles northeast of Cleveland, Ohio.

II

By application dated May 5, 1999, CEICO, DLC, and FENOC requested approval of the proposed transfer of DLC's 13.74 percent undivided ownership interest in PNPP to CEICO, which presently owns a 31.11 percent interest. In addition, the application requested approval of a conforming amendment to reflect the transfer. No

physical changes will be made to PNPP as a result of this transfer, and there will be no significant change in the operations of PNPP. FENOC would remain as the agent for the joint owners of the facility and would continue to have exclusive responsibility for the management, operation, and maintenance of PNPP. The conforming amendment would remove DLC from the facility operating license.

Approval of the transfer and conforming license amendment was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on June 14, 1999 (64 FR 31879).

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information contained in the application of May 5, 1999, and other information before the Commission, the NRC staff has determined that CEICO is qualified to hold the license to the extent proposed in the application and that the transfer of the license, to the extent it is held by DLC, to CEICO is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated September 30, 1999.

III

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended; 42 USC 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *It is hereby ordered* that the license transfer referenced above is approved, subject to the following conditions:

(1) All decommissioning funding arrangements pertaining to the transfer of DLC's ownership interest to CEICO, as set forth in the application and the safety evaluation supporting this Order, shall be implemented and fulfilled.

(2) After the receipt of all required regulatory approvals of this transfer of DLC's interest in Perry to CEICO, CEICO shall inform the Director, Office of Nuclear Reactor Regulation, in writing, of such receipt within five business days, and of the date of the closing of the transfer no later than seven business days prior to the date of the closing. Should the transfer not be completed by September 30, 2000, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in the attachment to this Order, to conform the license to reflect the subject license transfer is approved. Such amendment shall be issued and made effective at the time the proposed license transfer is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated May 5, 1999, and the safety evaluation dated September 30, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, OH 44081.

Dated at Rockville, Maryland, this 30th day of September 1999.

For The Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–26490 Filed 10–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company, San Onofre Nuclear Generating Station, Units 2 and 3; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. NPF–10 and NPF–15 issued to Southern California Edison Company (SCE, the licensee) for operation of the San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, located in San Diego County, California.

The proposed amendments would revise the SONGS Units 2 and 3 technical specifications (TSs) Surveillance Requirement (SR) 3.3.9 to include a response time testing requirement for the control room isolation signal (CRIS).

Before issuance of the proposed license amendments, 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 amendments 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:

Do the proposed amendments—

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change will maintain the Control Room Isolation Signal (CRIS) operability and surveillance requirements in the Technical Specification. The proposed change only adds response time testing. The probability of an accident and the consequences of an accident are unaffected by this proposed change since the Safety Analysis remains unaffected. Therefore, operation of the facility in accordance with

this change will not involve an increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Addition of response time testing will not alter the design and operational interface between the CRIS instrumentation and existing plant equipment. The monitors will continue to operate and perform their intended safety function to isolate the control room following a design basis accident as before. Therefore, operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety?

Response: No.

This proposed change will not affect the margin of safety since this is an addition to the Technical Specifications with the purpose of verifying compliance with 10 CFR Part 50 Appendix A General Design Criterion 19. Addition of response time testing will verify this specific 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 amendments 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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 November 12, 1999, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facilities operating licenses 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 Main Library, University of California, Irvine, California 92713. 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 amendments.

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 close of business of 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 Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770, 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 amendments dated October 20, 1998 (PCN 485), as supplemented August 13, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Main Library, University of California, Irvine, California 92713.

Dated at Rockville, Maryland, this 5th day of October, 1999.

For the Nuclear Regulatory Commission.

L. Raghavan,

Senior Project Manager, Section 2, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–26488 Filed 10–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–155]

Consumers Energy Company; Big Rock Point Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–6, issued to Consumers Energy Company (the licensee). The amendment would revise Appendix A Technical Specifications (TSs) for the Big Rock Point (BRP) Plant, a permanently shutdown nuclear reactor facility located in Charlevoix County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed action would make changes to the TSs by deleting (1) the definition Site Boundary and its use throughout the TSs, (2) Figure 5.1–1, the BRP site map, (3) TS 5.1.1 paragraph numbering, and (4) other site-specific information describing the site and site boundary. The proposed action would also make editorial or administrative changes to TSs 6.6.2.5.g, h, and j and 6.6.2.6.b for the above four changes. The proposed action is in accordance with the licensee's application for amendment dated May 11, 1999, as supplemented by letters dated June 3 and July 28, 1999.

The Need for the Proposed Action

The proposed action would, for item (1) above, remove from the TSs a definition that is not needed because Site Boundary is defined in 10 CFR Part 20. The TSs and Part 20 definitions are equivalent. For item (2), TS Figure 5.1–1, the BRP site map, is equivalently represented in the licensee-controlled Final Hazards Summary Report (FHSR) and this type of site-specific information is not required to be in TSs under 10 CFR 50.36a requirements. Furthermore, this change to the TSs is consistent with NRC guidance in NUREG–1433, ''Standard Technical Specifications, General Electric Plants, BWR/4.'' In concert with Section 50.36a requirements, NUREG–1433 provides guidance in determining a minimum set of standard requirements for permanently shutdown reactor facilities. Item (3) is administrative in nature in that it removes TS paragraph numbering due to the removal of site-specific information as described in Item (4). Item (4) would delete certain site-specific information from the TS description of the BRP site. Most of this site-specific information is already contained in the licensee's FHSR. This information includes distances from the reactor centerline to the nearest site boundary. The information that is not currently in the FHSR will be placed in the FHSR as committed by the licensee in its letter of July 28, 1999. Regarding the last item, editorial and administrative changes were necessary as a result of the four changes made above.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed amendment to the BRP TSs and concludes that issuance of the proposed amendment will not have an environmental impact. The proposed change in TS site-specific information is consistent with the regulations and regulatory guidance and is considered editorial and administrative in nature. The licensee does not propose any disposal or relocation of nuclear fuel or any changes to structures, systems, components, or site boundaries.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historical sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in environmental reviews for the BRP plant.

Agencies and Persons Contacted

In accordance with its stated policy, on June 7 and August 9, 1999, the staff consulted with the State of Michigan official, Mr. David W. Minnaar, Chief, Radiological Protection Section, Drinking Water and Radiological Protection Division, Michigan

Department of Environmental Quality, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated May 11, 1999, as supplemented by letters dated June 3 and July 28, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the Commission's local public document room located in the North Central Michigan College Library, 1515 Howard Street, Petoskey, Michigan 49770.

Dated at Rockville, Maryland, this 4th day of October, 1999.

For the Nuclear Regulatory Commission.

Michael T. Masnik,

Chief, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–26489 Filed 10–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company, Inc., Alabama Power Company, Joseph M. Farley Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–2 and NPF–8, issued to Southern Nuclear Operating Company, Inc, (SNC), for operation of the Joseph M. Farley Nuclear Plant, Units 1 and 2, located in Houston County, Alabama.

Environmental Assessment

Identification of the Proposed Action

The proposed action would fully convert SNC's current technical specifications (CTS) to Improved Technical Specifications (ITS) based on NUREG–1431, ''Standard Technical Specifications, Westinghouse Plants,'' Revision 1, of April 1995. The proposed action is in accordance with SNC's application of March 12, 1998, supplemented by SNC's letters of April 24, 1998, August 20, 1998, November 20, 1998, February 3, 1999, February 20, 1999, April 30, 1999 (two letters), June 30, 1999, July 27, 1999, August 19, 1999, August 30, 1999, and September 15, 1999.

The Need for the Proposed Action

Implementing ITS at Farley would benefit nuclear safety. The Commission's ''NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors,'' (52 FR 3788, February 6, 1987), and later the Commission's ''Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors,'' (58 FR 39132, July 22, 1993), formalized this need. Each reactor vendor owners group (OG) and the NRC staff developed standard TS (STS) to aid in producing individual plant ITS. NRC NUREG–1432 contains the STS for Westinghouse-designed reactor plants. The NRC Committee to Review Generic Requirements reviewed NUREG–1432, noted the safety merits of the STS, and indicated that it supported operating plants converting to the STS. SNC used NUREG–1432 as the basis for developing the Farley, Units 1 and 2, ITS.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed TS conversion does not increase the probability or consequences of accidents previously analyzed and does not affect facility radiation levels or facility radiological effluents.

Changes that are administrative in nature have no effect on the technical content of the ITS and are acceptable. The increased clarity and understanding these changes bring to the ITS are expected to improve the operator's control of the plant in normal and accident conditions.

Relocating CTS requirements to SNC-controlled documents does not change the requirements. SNC may make future changes to these requirements, but SNC must make the changes under 10 CFR 50.59 or other NRC-approved control methods. This assures that SNC will maintain adequate requirements. All such CTS relocations conform to NUREG–1432 guidelines and the Final Policy Statement, and are therefore acceptable.

Changes involving more restrictive requirements are likely to enhance the safety of plant operations and are acceptable.

The NRC has reviewed all changes involving less restrictive requirements. Removing CTS requirements that provide little or no safety benefit or place unnecessary burdens on SNC is justified. In most cases, TS relaxations previously granted on a plant-specific basis resulted from generic NRC action or from agreements reached during discussions with the OG and are acceptable for Farley, Units 1 and 2. The NRC reviewed the generic relaxations contained in NUREG–1432 and SNC's deviations from NUREG–1432 and determined they are acceptable for Farley, Units 1 & 2.

In summary, the NRC determined that the Farley, Units 1 and 2, ITS provide control of plant operations such that there is reasonable assurance that the health and safety of the public will be adequately protected.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denying the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Farley, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on September 24, 1999, the staff consulted with the Alabama State

official, Mr. Kirk Whatley of the Office of Radiation Control, Alabama Department of Public Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see SNC's letter of March 12, 1998, supplemented by SNC's letters of April 24, 1998, August 20, 1998, November 20, 1998, February 3, 1999, February 20, 1999, April 30, 1999 (two letters), June 30, 1999, July 27, 1999, August 19, 1999, August 30, 1999, and September 15, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Dated at Rockville, Maryland, this 5th day of October, 1999.

For the Nuclear Regulatory Commission.

L. Mark Padovan,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–26493 Filed 10–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.181, ''Content of the Updated Final Safety Analysis Report in Accordance with 10 CFR 50.71(e),'' has been developed to describe methods acceptable to the NRC staff for updating the content of Final Safety Analysis Reports pursuant to 10 CFR 50.71(e), which requires Final Safety Analysis Reports to be updated periodically.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides may be obtained free of charge by writing the Office of Administration, Attention: Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289, or by email to <DISTRIBUTION@NRC.GOV>. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 30th day of September 1999.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 99–26491 Filed 10–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 8.15, ''Acceptable Programs for Respiratory Protection,'' describes a respiratory protection program that is acceptable to the NRC staff. The guide also provides guidance on performing evaluations to determine whether the use of respirators optimizes the sum of internal and external dose and other risks.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Recently published regulatory guides are available on the NRC's web site at <*WWW.NRC.GOV*> in the Reference Library under Regulatory Guides. Regulatory guides are also available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, OCIO, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax at (301) 415–2289. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 30th day of September 1999.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 99–26492 Filed 10–8–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–421]

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 15c2–8
SEC File No. 270–421
OMB Control No. 3235–0481

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.

Δ *Rule 15c2–8 Delivery of Prospectus*

Rule 15c2–8 requires broker-dealers to deliver preliminary or final prospectuses to specified persons in association with securities offerings. This requirement ensures that information concerning issuers flows to purchasers of the issuers' securities in a timely fashion. There are approximately 8,500 broker-dealers, any of which potentially may participate in an offering subject to Rule 15c2–8. The Commission estimates that Rule 15c2–8 creates approximately 50,000 burden hours with respect to 650 initial public offerings and 1,750 other offerings.

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 shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. 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, N.W., Washington, DC 20549.

Dated: September 30, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–26522 Filed 10–8–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24071; File No. 812–11544]

Ameritas Variable Life Insurance Corp., et al.

October 4, 1999.

AGENCY: Securities and Exchange Commission (the ''Commission'' or ''SEC'').

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the ''1940 Act'') approving certain substitutions of securities, and pursuant to Section 17(b) of the 1940 Act exempting related transactions from Section 17(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered unit investment trusts to substitute investment portfolios created by Calvert Variable Series, a registered open-end management investment company, for portfolios of other registered management investment companies, and to permit certain in-kind redemptions of portfolio securities in connection with the substitutions.

APPLICANTS: Ameritas Variable Life Insurance Corp. (''AVLIC''), Ameritas Variable Life Insurance Corp. Separate Account VA–2 (''Separate Account VA–2''), Ameritas Investment Corp. (''AIC''), and Ameritas Variable Life Insurance Corp. Separate Account V (''Separate Account V'') (collectively, the ''Applicants'').

FILING DATE: The application was filed on March 18, 1999 and amended and restated on September 27, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 27, 1999, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants: c/o Ameritas Variable Life Insurance Company, P.O. Box 81889, Lincoln, Nebraska 68501–1889, Attention: Donald R. Stading, Esquire.

FOR FURTHER INFORMATION CONTACT: Zandra Y. Bailes, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. AVLIC is a stock life insurance company organized in the State of Nebraska and currently licensed to sell life insurance in 46 states and in the District of Columbia. AVLIC is a wholly-owned subsidiary of AMAL Corporation (''AMAL''), a corporation organized under Nebraska law in 1996; Ameritas Life Insurance Company (''Ameritas Life''), also a Nebraska corporation, owns a majority interest in AMAL Corporation. Ameritas Life was, in turn a wholly-owned indirect subsidiary of Ameritas Mutual Insurance Holding Company. Ameritas Mutual Insurance Holding Company and Acacia Mutual Holding Company (''Acacia''), subsidiaries of which include companies that provide investment advisory and/or other services to CVS, consummated a merger effective January 1, 1999 (''Ameritas-Acacia Merger''). The combined company is known as AmeritasAcacia Mutual Holding Company.

2. AIC, a Nebraska corporation, is an investment adviser registered under the Investment Advisers Act of 1940, as amended. AIC is a wholly-owned subsidiary of AMAL and an affiliate of Ameritas Life.

3. Separate Account VA–2 and Separate Account V (collectively, the ''Separate Accounts'') are each registered with the Commission under the 1940 Act as a unit investment trust. Separate Account VA–2 serves as the funding vehicle for variable annuity contracts (''VA Contracts'') issued by AVLIC. Separate Account V serves as the funding vehicle for variable universal life contracts (''VUL Contracts'') issued by AVLIC. Each of the variable annuity and variable universal life contracts funded by the Separate Accounts (collectively, ''Variable Contracts'') is registered with the Commission under the Securities Act of 1933 (''1933 Act'') and is offered exclusively by means of a prospectus which describes the applicable terms and conditions of each such contract. The Separate Accounts are each divided into separate subaccounts (each a ''Subaccount'') and each Subaccount invests exclusively in shares of one of the investment options currently available to contract holders (the ''Existing Funds'').

4. The Existing Funds consist of 26 investment portfolios issued by investment companies not affiliated with Applicants, as follows: Variable

Insurance Products Funds and Variable Insurance Products Fund II (collectively, the ''Fidelity Portfolios''), Alger American Fund (''Alger Portfolios''), MFS Variable Insurance Trust (''MFS Portfolios''); and Morgan Stanley Dean Witter Universal Funds, Inc. (''Morgan Stanley Portfolios''). Each Of the Existing Funds is registered as a management investment company under the 1940 Act. Not all of the Existing Funds are involved in the substitutions. The application contemplates that four of the six Alger Portfolios, three of the five MFS Portfolios and two of the ten Fidelity Portfolios will be replaced by substantially similar funds. In fact, Applicants state that the substitutions are structured so that the investment objectives and policies of the substituted portfolios will mirror the investment policies and objectives of the corresponding replaced portfolios.

5. The Variable contracts expressly reserve to AVLIC the right, subject to compliance with applicable law, to substitute shares of one open-end investment company for shares of another open-end investment company held by a Separate Account.

6. Calvert Variable Series, Inc., (''CVS'') is registered under the 1940 Act as an open-end management series. Currently, CVS has five investment portfolios (''Current CVS Series''). Shares of the Current CVS Series are offered only to insurance companies for allocation to certain of their variable separate accounts. Calvert Asset Management Company (''CAMCO'') provides investment management services to each of the current CVS Series. CVS has organized nine new series (collectively, the ''Ameritas Portfolios''). Each of the Ameritas Portfolios will replicate the investment objectives and policies of one of the Existing Funds involved in the Substitutions (each, a ''Replaced Fund'').

7. Overall investment management services will be provided to each of the newly organized Ameritas Portfolios by AIC pursuant to an advisory agreement between AIC and CVS (''AIC Advisory Agreement''). Under the AIC Advisory Agreement, IC will be responsible for the management of the business and affairs of each of the Ameritas Portfolios, subject to the supervision of the Board of Directors of CVS. AIC will also be authorized to exercise full investment discretion and make all determinations with respect to the investment of the assets of the respective Ameritas Portfolios. Under the AIC Advisory Agreement, AIC will have the ability, at its own cost and expense and subject to applicable requirements of the 1940 Act, to retain other investment advisory organizations (''Subadvisers'') to provide day-to-day portfolio management to each of the Ameritas Portfolios. For its services under the AIC Advisory Agreement, AIC will receive a fee from each of the Ameritas Portfolios. AIC, in turn, will pay the fees and expenses of any Subadviser retained by AIC or any of the Ameritas Portfolios.

8. Applicants seek relief for nine substitutions. The table below lists, for seven of the nine substitutions, the Replaced Funds and the Ameritas Portfolios that will be substituted for each if the order requested is granted. The column entitled ''Investment Objective and Policies'' summarizes the investment objectives and policies that are now in effect for the indicated Replaced Fund and will be in effect, following the substitutions, with respect to the indicated Ameritas Portfolio. The investment objectives and policies of the Ameritas Portfolios mirror those of the Replaced Funds. Therefore, Applicants stat that following the substitutions, each of the listed Ameritas Portfolios will have objectives and policies that are substantially the same as the objectives and policies of the Replaced Funds. Moreover, Applicants state that day-to-day investment decisions for the Ameritas Portfolios listed in the table below will be made by the same investment advisory organization that currently serves the corresponding Replaced Fund. Under these circumstances, Applicants represent that the investment objectives of those contractholders who are affected by substitutions 1 through 7 will not be materially affected by the substitutions.

Replaced fund	Ameritas portfolio	Subadviser for Ameritas portfolio	Investment objective and policies of replaced fund and Ameritas portfolio
1. Alger Income and Growth	Ameritas Income and Growth	Fred Alger Management, Inc.	Primarily seeks to provide a high level of dividend income. Secondary goal is to provide capital appreciation. Under normal circumstances, invests in dividend paying equity securities, such as common or preferred stocks, preferably those believed to offer opportunities for capital appreciation.
2. Alger Growth	Ameritas Growth	Fred Alger Management, Inc.	Seeks long-term capital appreciation. Focuses on companies that generally have broad product lines, markets, financial resources and depth of management. Under normal circumstances, invests primarily in equity securities, such as common or preferred stocks, of companies listed on U.S. exchanges or in the U.S. over-the-counter market, with market capitalizations of $1 billion or greater.

Replaced fund	Ameritas portfolio	Subadviser for Ameritas portfolio	Investment objective and policies of replaced fund and Ameritas portfolio
3. Alger Small Capitalization	Ameritas Small Capitalization	Fred Alger Management, Inc.	Seeks long-term capital appreciation. Focuses on small, fastgrowing companies that offer innovative products, services or technologies to a rapidly expanding marketplace. Under normal circumstances, invests primarily in equity securities, such as common or preferred stocks, of small capitalization companies listed on U.S. exchanges or in the U.S. over-the-counter market. A small capitalization company is one that has a market capitalization within the range of companies in the Russel 2000 Growth Index or the S&P SmallCap 600 index.
4. Alger MidCap Growth	Ameritas MidCap Growth	Fred Alger Management, Inc.	Seeks long-term capital appreciation. Invests in midsize companies with promising growth potential. Under normal circumstances, invests primarily in equity securities, such as common or preferred stocks, of companies listed on U.S. exchanges or in the U.S. over-the-counter market and having a market capitalization within the range of companies in the S&P MidCap 400 Index.
5. MFS Emerging Growth Series.	Ameritas Emerging Growth	MFS Co.	Seeks long-term growth of capital. Invests, under normal market conditions, at least 65% of its total assets in common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts for those securities, of emerging growth companies.
6. MFS Research Series	Ameritas Research	MFS Co.	Seeks long-term growth of capital and future income. Invests, under normal market conditions, at least 80% of its total assets in common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts. Focuses on companies that are believed to have favorable prospects for long-term growth, attractive valuations based on current and expected earnings or cash flow, dominant or growing market share and superior management. Investments may be made in companies of any size and may include securities traded on securities exchanges or on the over-the counter-markets.

Replaced fund	Ameritas portfolio	Subadviser for Ameritas portfolio	Investment objective and policies of replaced fund and Ameritas portfolio
7. MFS Growth w/Income	Ameritas Growth w/Income	MFS Co.	Seeks to provide reasonable current income and long-term growth of capital and income. Invests, under normal market conditions, at least 65% of its total assets in common stocks and related securities, such as preferred stocks, convertible securities and depositary receipts for those securities. These securities may be listed on a securities exchange or traded in the over the counter markets. While investments may be made in companies of any size, the focus is on companies with larger market capitalizations that are believed to have sustainable growth prospects and attractive valuations based on current and expected earnings or cash flow.

9. Substitutions 8 and 9 involve a stock index and a money market fund, respectively—vehicles that select their investments from narrowly defined classes of securities and in accordance with legally mandated investment disciplines. The tables below compare the investment objectives and policies of the Replaced Funds and the Ameritas Portfolios involved in these two remaining substitutions, and indicate the investment advisory organization that will be responsible for day-to-day portfolio management following the Substitutions. With respect to substitutions 8 and 9, Applicants represent that the Ameritas Portfolios involved in substitutions have objectives and policies that are sufficiently similar to those of the Replaced Funds so that the objective of the affected contractholders can continue to be met.

	Investment objective and policies
Substitution No. 8	
Replaced Fund, Fidelity Index 500, Fidelity Management and Research	Seeks investment results that correspond to the total return of common stocks publicly traded in the United States, as represented by the Standard & Poor's 500. Invests at least 80% of assets in common stocks included in the Standard & Poor's 500. May lend securities to earn income for the fund.
Ameritas Portfolio, Ameritas Index 500 Portfolio, State Street Global Advisors.	Seeks investment results that correspond to the total return of common stocks publicly traded in the United States, as represented by the S&P 500 Stock Index. The Portfolio intends to invest in all 500 stocks in the S&P Index in proportion to the weighting in the Index.
Substitution No. 9	
Replaced Fund, Fidelity Money Market, Fidelity Management and Research.	Seeks as high a level of current income as is consistent with the preservation of capital and liquidity. Invests in U.S. dollar-denominated money market securities, including U.S. Government securities and repurchase agreements, and may enter into reverse repurchase agreements.
Ameritas Portfolio, Ameritas Money Market Portfolio, CAMCO	Seeks as high a level of current income as is consistent with the preservation of capital and liquidity. Invests in U.S. dollar-denominated money market securities of domestic and foreign issuers, including U.S. Government securities and repurchase agreements, and may enter into reverse repurchase agreements. Invests more than 25% in the financial services industry.

10. In contrast to the Ameritas Portfolios involved in Substitution Nos. 1–7, the Ameritas Money Market Portfolio and the Ameritas Index 500 Portfolio will, following the substitutions, be subadvised by investment advisory organizations different from the organizations that currently manage the money market and stock index offerings among the Existing Portfolios. Following the substitutions, day-to-day portfolio decisions for the Ameritas Money Market Portfolio will be the responsibility of CAMCO. Day-to-day portfolio decisions for the Ameritas Index 500 Portfolio will be the responsibility of State Street Global Advisors, a division of State Street Bank and Trust Co. As in the case of the other Ameritas Portfolios, however, AIC will provide overall management supervision for both the Ameritas Money Market and Ameritas Index 500 Portfolios.

11. Applicants acknowledge that different investment advisory organizations may approach the management of money market and index funds differently. However, Applicants state that the potential impact of the change in the identity of the investment advisory organization responsible for day-to-day investment

decisions will be mitigated by the fact that these substitutions involve vehicles required to invest in a narrow range of securities and adhere to strict limits in their investment practices. In addition, Applicants believe the anticipated benefits that will follow from Applicants' increased ability to monitor and control the investment options offered to contractholders through the Variable Contracts outweigh any impact that a change in the portfolio manager of these funds may have on affected contractholders. Applicants also state that the investment advisory organizations that will be designated to make day-to-day investment decisions for the Ameritas Money Market Portfolio and Ameritas Index 500 Portfolio are experienced money managers and fully equipped to provide such services.

12. Applicants state that the Ameritas Portfolios will, in all cases, be smaller than the Replaced Funds. Applicants, state therefore that it is likely that the Ameritas Portfolios will have higher expense ratios than the Replaced Funds. Recognizing this, Applicants state that, as a condition of the requested order, AIC will waive its fee and/or reimburse the expenses of any Ameritas Portfolios if the expense ratio of that Portfolio exceeds the expense ratio of the corresponding Replaced Fund (''Prior Expense Ratio''). This fee cap will remain in effect until one year following the date on which the order is issued. Following the one year period, Applicants believe that the economies that can be achieved under the proposed structure, and future transactions under consideration by AVLIC and certain of its affiliated companies will tend to reduce the expense ratios of the Ameritas Portfolios.

13. Because there can be no guarantee that there will be substantial growth in the assets of the Ameritas Portfolios, AIC will guarantee, and will include such guarantee as a term in the AIC Advisory Agreement, that the expenses of an Ameritas Portfolio will not be permitted to exceed an expense ratio which is .10% greater than the Prior Expense Ratio of the corresponding Replaced Fund following the expiration of the initial one year fee cap, unless an amendment to the investment advisory contract is approved modifying or eliminating AIC's expense guarantee. Under Sections 15 (a) and (c) of the 1940 Act, any such amendment would require the approval of both the Board of Directors of CVS, including those directors who are ''independent directors'' of CVS, and the shareholders of the relevant Ameritas Portfolios. It is anticipated that the AIC Advisory Agreement will permit AIC to recapture expenses paid on behalf of the Ameritas Portfolios following the end of the one year fee cap period under certain circumstances. The AIC Advisory Agreement will include a provision that will permit AIC to recapture fees waived and/or expenses reimbursed to an Ameritas Portfolio following the expiration of the initial fee cap period. Such recapture would be permitted under the AIC Advisory Agreement, however, only after the expiration of the initial one year fee cap period and only with respect to periods in which the expense ratio of the relevant Ameritas Portfolio is a ratio which does not exceed the Prior Expense Ratio by more than .10%, after taking into account the fee recapture. In addition, such recapture will be available to AIC only until the second anniversary of the end of the initial fee cap period.

14. The chart below shows Applicants' representations regarding: (i) Expense ratios for the Replaced Funds as of December 31, 1998 and (ii) the total assets of each Replaced Fund as of December 31, 1998.

Replaced fund	Expense ratio	Assets at 12/31/98 (000 omitted)
Alger Small Cap	0.89%	1,216,584
Alger Growth	0.79%	1,904,719
Alger Income and Growth	0.70%	77,926
Alger MidCap	0.84%	689,571
MFS Emerging Growth	0.85%	908,987
MFS Research	0.86	567,778
MFS Growth w/Income	0.88% (after waiver [2])	244,310
Fidelity Index 500	0.28% (after waiver [2])	3,772,068
Fidelity Money Market	0.30%	1,507,489

[1] Prior to October 2, 1998, MFS voluntarily capped operating expenses of the Growth w/Income Fund (exclusive of management fees) at .25%; has this policy not been in effect, the expense ratio for that fund would have been .95%.

[2] For the period shown, Fidelity voluntarily capped total operating expenses at .28%; had this policy not been in effect, the expense ratio for the Fidelity Index 500 Portfolio would have been .35%.

15. The following chart shows (i) the estimated expense ratio for the Ameritas Portfolios; (ii) estimated assets of the Ameritas Portfolios; (iii) expense ratios for the Ameritas Portfolios with the 1 year cap in effect; and (iv) expense ratios after the one year cap.

Ameritas portfolio	Estimated expense ratio (percent)	Estimated assets (000 omitted)	1 Year cap (percent)	Expense cap (percent)
Small Cap	1.00	146,000	0.89	0.99
Growth	0.89	184,000	0.79	0.89
ncome & Growth	0.82	68,000	0.70	0.80
MidCap	0.97	84,000	0.84	0.94
Emerging Growth	0.91	106,000	0.85	0.95
Research	1.15	26,000	0.86	0.96
Growth w/Income	1.00	45,000	0.88	0.98
Index 500	0.41	197,000	0.28	0.38
Money Market Fund	0.35	142,000	0.30	0.40

16. Applicants state that the Ameritas-Acacia Merger brought together under one corporate umbrella several separate asset management organizations. Applicants represent that one of the anticipated benefits of the substitutions will be the opportunity to take advantage of economies of scale created by the Ameritas-Acacia Merger. The substitutions are a first step in the process. Specifically, the substitutions are the first step in establishing a manager of managers structure that will provide Applicants with increased ability to affect the administration and management of the investment options offered through Variable Contracts. As the overall investment manager of each of the Ameritas Portfolios, AIC will be in a position to oversee the operations of the Ameritas Portfolios, including the performance and portfolio management. Applicants represent that, following the substitutions, Applicants will have the means to more directly monitor the overall manner in which investment options available through the Variable Contracts are managed and administered. Applicants also state that this will be an important tool in assuring an efficient interface between the Ameritas Portfolios and the Variable Contracts. Applicants further represent that Applicants' involvement in overseeing the investment options offered through the Variable Contracts will allow Applicants greater flexibility to react to poor performance or mismanagement by a service provider, including Subadvisers, than is possible under the current arrangement. Applicants believe that may be the case even before the Ameritas Portfolios are permitted to rely upon the CVS 15(a) Order (see below). For example, Applicants, through AIC, would be in a position to monitor the operation of the Ameritas Portfolios more closely than is currently the case with respect to the Replaced Funds. In addition, Rule 15a–4 under the 1940 Act would permit Applicants to recommend to the CVS Board that a particular manager be replaced. Assuming Board approval and assuming that the subadvisory fee would remain unchanged, a new investment advisory organization could be engaged and assume portfolio management responsibilities immediately , provided only that the approval of the holders of a majority of the outstanding voting securities of the affected portfolio were obtained within the period prescribed by the rule.

17. CVS and certain of its affiliates have obtained exemptive relief from Section 15(a) of the 1940 Act (''CVS 15(a) Order''). The CVS 15(a) Order permits CAMCO, as the investment adviser for the several existing series of CVS to replace any subadviser or to employ a new Subadviser, without submitting such actions for the approval of shareholders of the affected series. Following the substitutions, Applicants anticipate that each of the Ameritas Portfolios will be entitled to rely on the CVS 15(a) Order. As a condition to the application, however, Applicants state that they will take no action in reliance on the CVS 15(a) Order with respect to any one of the Ameritas Portfolios unless and until the operation of that portfolio in the manner contemplated by the CVS 15(a) Order is approved following the substitutions, by the holders of a majority of the outstanding shares of that portfolio within the meaning of the 1940 Act and in a manner that is consistent with the order exempting CVS from certain provisions of Rules 6e–2 and 6e–3T under the 1940 Act (''CVS Shared Funding Order'').

18. Applicants state that on May 3, 1999, a supplement to each of the prospectuses relating to the Variable Contracts was filed with the Commission. The supplements summarized the substitutions, including the possible impact that the substitutions may have on fees and expenses, and were mailed to all contractholders. Prior to the time that the order requested by the application is issued, but following the date on which a notice of the application is published in the **Federal Register**, AVLIC will file with the Commission another supplement to the prospectus relating to the Variable Contracts. These supplements (''Product Supplements'') will reflect all material information relating to the substitutions and the Ameritas Portfolios, including the identity of the Replaced Funds, a description of the Ameritas Portfolios and their respective investment objectives and policies, the Subadviser for each of the Ameritas Portfolios, fees and expenses associated with the Ameritas Portfolios, and the impact that the substitution will have on fees and expenses. In addition, CVS has filed a post-effective amendment to its registration statement to reflect the organization of the nine Ameritas Portfolios (''Amended CVS Prospectus'').

19. Following the date on which the notice of the application is published in the **Federal Register**, but before the date on which the order requested by the application becomes effective (''Effective Date''), AVLIC will send to affected contractholders a notice (''Pre-Substitution Notice'') which will include the Product Supplements. The Pre-Substitution Notice will inform affected contractholders of (i) the effective date of the substitutions; (ii) the right of each affected contractholder, under the VUL and VA Contracts, to transfer contract values among the various subaccounts; (iii) the fact that any such transfer that involves a transfer from any of the Replaced Funds will not be subject to any administrative charge and will not count as one of the ''free transfers'' to which affected contractholders may otherwise be entitled.

20. Within five days after the Effective Date, affected contractholders will be sent written confirmation (''Confirmation Notice'') of the substitution transactions. The Confirmation Notice will (i) confirm that the substitutions were carried out; (ii) reiterate that each affected contractholder may make one transfer of all of the contract value or cash value under their Variable Contract that is invested in any one of the Subaccounts that were affected by the substitutions to any other Subaccount available under their Variable Contract without such transfer being subject to any administrative charge, or being counted as one of the ''free transfers'' (or one of the limited number of transfers) to which affected contractholders may be entitled under their Variable Contract; and (iii) state that AVLIC will not exercise any rights reserved by it under the Variable Contracts to impose additional restrictions on transfers until at least 30 days after the Effective Date. The Confirmation Notice will be accompanied by a then current prospectus relating to the relevant Variable Contract, amended to reflect the inclusion of the Ameritas Portfolios, as well as a definitive prospectus relating to the Ameritas Portfolios.

21. Applicants state that the substitutions will be effected by redeeming shares of the Replaced Funds at relative net asset value and using the proceeds to purchase shares of the Ameritas Portfolios at net asset value on the date the substitutions take place. The proceeds of such redemptions will be effected through a combination of cash and in-kind transactions. All redemptions and purchases will be effected in accordance with Rule 22c–1 under the 1940 Act. No transfer or similar charges will be imposed by AVLIC, and, at all times, all contract and policy values will remain unchanged and fully invested.

22. Redemptions in-kind will be done in a manner consistent with the investment objectives, policies and diversification requirements of the respective Ameritas Portfolios. Further,

Applicants represent that the in-kind redemptions for each of the Ameritas Portfolios will be reviewed by the Subadviser responsible for making day-to-day investments decisions for that Portfolio to assure that the investment objective, investment policies and diversification requirements set forth in the registration statement relating to the relevant Ameritas Portfolio are satisfied. In addition, Applicants represent that the in-kind asset transfers will be valued in the manner that is consistent with the valuation procedures of both the Replaced Fund and the relevant Ameritas Portfolio. Applicants further state that any inconsistencies in valuation procedures between the Replaced Fund and the relevant Ameritas Portfolio will be reconciled so that the redeeming and purchasing values are the same. In addition, and consistent with Rule 17a–7 under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid in connection with the in-kind transactions.

23. The significant terms of the substitutions described in the application include:

a. The Ameritas Portfolios involved in substitutions 1–7 have objectives and policies that are substantially the same as the objectives and policies of the Replaced Fund so that the objectives of the affected contractholders can continue to be met. The Ameritas Portfolios involved in substitutions 8 and 9 have objectives and policies that are sufficiently similar so that the objective of the affected contractholders can continue to be met.

b. In connection with the proposed manager of managers structure, Applicants anticipate that each of the Ameritas Portfolios will seek to rely upon the CVS 15(a) Order. Applicants will take no action in reliance on the CVS 15(a) Order with respect to any one of the Ameritas Portfolios unless and until the application of the manager of managers structure contemplated by the CVS 15(a) Order is approved by a vote of a majority of the outstanding shares of that portfolio following the substitution and in a manner consistent with the CVS Shared Funding Order.

c. As a result of AIC's contractual obligation to waive fees and/or reimburse expenses, the expense ratio of each Ameritas Portfolio will, immediately following the Effective Date, not exceed the expense ratio reported by the respective Replaced Funds as of the end of such Replaced Fund's then most recently ended fiscal quarter (''Prior Expense Ratio''). AIC will continue to waive its fees and/or reimburse expenses, for each Ameritas Portfolio as necessary in accordance with this undertaking until one year following the date on which the order requested by the application is issued.

d. The AIC Advisory Agreement will also require AIC to guarantee that, following the initial one year fee cap, the expenses of an Ameritas Portfolio will not exceed an expense ratio that is 0.10% higher than the Prior Expense Ratio of its corresponding Replaced Fund unless an amendment to the AIC Advisory Agreement is approved, in accordance with Sections 15(a) and (c) of the 1940 Act, by the Board of Directors of CVS, including those directors who are ''independent directors'' of CVS, and the shareholders of the relevant Ameritas Portfolio.

e. Affected contractholders may transfer assets from any Subaccount of the Separate Accounts to any other subaccount available under the Variable Contract as permitted by their contract. Any such transfer that involves a transfer from any of the Replaced Funds, from the date of the notice that the Replaced Funds will be substituted through a date at least 30 days following the Effective Date, will not be subject to any administrative charge, and will not count as one of the ''free transfers'' to which affected contractholders may otherwise be entitled. Affected contractholders may also withdraw amounts under any contract or terminate their interest in any such contract in accordance with the terms and conditions of any such contract, including, but not limited to payment of any applicable surrender charge.

f. The substitutions will be effected at the net asset value of the respective shares in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder, without the imposition of any transfer or similar charge, and without change in the amount or value of any Variable Contract held by affected contractholders. Affected contractholders will not incur any fees or charges as a result of the substitutions, nor will their rights or the obligations of AVLIC under such Variable Contracts be altered in any way. All expenses incurred in connection with the substitutions, including legal, accounting and other fees and expenses, will be borne by Applicants, other than the Separate Accounts.

g. Redemptions in-kind will be handled in a manner consistent with the investment objectives, policies and diversification requirements of the Ameritas Portfolios. Consistent with Rule 17a–7(d) under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid by the Replaced Funds or Ameritas Portfolios or affected contractholders in connection with the in-kind transactions. In addition, the in-kind asset transfers will be valued in the manner that is consistent with the valuation procedures of both the Replaced Fund and relevant Ameritas Portfolio.

h. The substitutions will not be counted as transfers in determining the limit on the total number of transfers that affected contractholders may otherwise make under the Variable Contracts.

i. The substitutions will not alter in any way the annuity, life or tax benefits afforded under the Variable Contracts held by any contractholder.

24. Applicants state that they will not complete the substitutions and related transactions described in the application (other than the mailing of the Pre-Substitution Notices) unless all of the following conditions are met:

a. The Commission shall have issued an order (i) approving the substitutions under Section 26(b) of the 1940 Act; and exempting the in-kind redemptions from the provisions of Section 17(a) of the 1940 Act as necessary to carry out the substitutions as described in the application.

b. Each affected contractholder will be sent a Pre-Substitution Notice, which will include the Product Supplements and will inform affected contractholders of (i) the Effective Date of the substitutions; (ii) the right of each affected contractholder, under the VUL and VA Contracts, to transfer contract values among the various subaccounts (iii) the fact that any such transfer involves a transfer from any of the Replaced Funds will not be subject to any administrative charge and will not count as one of the ''free transfers'' to which affected contractholders may otherwise be entitled.

c. Each affected contractholder will receive, within five days following the Effective Date of the substitutions, written notice (''Confirmation Notice'') which will (i) confirm that the substitutions were carried out; (ii) reiterate that each affected contractholder may make one transfer of all of the contract value or cash value under their Variable Contract that is invested in any one of the Subaccounts that was affected by the substitutions to any other Subaccount available under their Variable Contract without such transfer being subject to any administrative charge, or being counted as one of the ''free transfers'' (or one of the limited number of transfers) to

which affected contractholders may be entitled under their Variable Contract; and (iii) state that AVLIC will not exercise any rights reserved by it under the Variable Contracts to impose additional restrictions on transfers until at least 30 days after the Effective Date. The Confirmation Notice will be accompanied by a then current prospectus relating to the relevant Variable Contract, amended to reflect the inclusion of the Ameritas Portfolios, as well as a definitive prospectus relating to the Ameritas Portfolios.

d. AVLIC shall have satisfied itself that (i) the Variable Contracts allow the substitution of investments in the manner contemplated by the substitutions and related transaction described in the application; (ii) the transactions can be consummated as described in the application under applicable insurance laws; and (iii) that any regulatory requirements in each jurisdiction where the Variable Contracts are qualified for sale, have been complied with to the extent necessary to complete the transactions.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission approves such substitution. Section 26(b) further provides that the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

2. Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the substitutions and related transactions. Applicants assert that the purposes, terms, and conditions of the substitutions are consistent with the protection of investors and the purposes fairly intended by the 1940 Act. Applicants further assert that the substitutions will not result in the type of forced redemption that Section 26(b) was designed to guard against.

3. Applicants maintain that the substitutions do not represent the type of transaction that Section 26(b) was designed to prevent for the following reasons: (a) the substitutions are designed to give AVLIC more control over investment products; (b) the substitutions are part of a series of business initiatives which have the potential to reduce expenses; (c) the substitutions will provide benefits to contractholders due to the additional services provided by AIC; and (d) the procedures that Applicants will follow in the substitutions will give affected contractholders ample notice of the substitutions and any potential impact. In addition, Applicants state that affected contractholders can transfer from the Replaced Funds or the Ameritas Portfolios (after the substitution) without a transfer charge. Applicants also note that only 9 of 26 investment options are involved in the substitutions, and this, in combination with the transfer rights, gives affected contractholders an ability to ''opt out'' and have an effective choice of investments. Applicants state that these alternatives provide a range of investments sufficient to meet affected contractholders' investment goals.

4. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or any affiliate of such affiliated person, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any affiliated person from purchasing any security or other property from such registered investment company.

5. Applicants request an order pursuant to Section 17(b) of the 1940 Act exempting the in-kind redemptions and purchases from the provisions of Section 17(a). Section 17(b) of the 1940 Act provides that the Commission may grant an order exempting a proposed transaction from Section 17(a) if evidence establishes that: (1) The terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company concerned; and (3) the proposed transaction is consistent with the general purposes of the 1940 Act.

6. Applicants represent that, if effected in accordance with the procedures described in the application and summarized herein, the substitutions are consistent with the general purposes of the 1940 Act and do not present any of the conditions or abuses that the 1940 Act was designed to prevent. Applicants state that the consideration to be paid by each Ameritas Portfolio, and received by each of the Replaced Funds, will be fair and reasonable and will not involve overreaching because the substitutions will not result in the dilution of the interests of any affected contractholders and will not effect any change in economic interest, contract value or the dollar value of any Variable Contract held by an affected contractholder. The in-kind redemptions and purchases will be done at values consistent with the policies of both the Replaced Funds and the Ameritas Portfolios and will satisfy the procedural safeguards of Rule 17a–7. Both AIC and the Subadviser of the relevant Ameritas Portfolio will review all the asset transfers to assure that the assets meet the objectives of the relevant Ameritas Portfolio and that they are valued under the appropriate valuation procedures of the Replaced Fund and such Ameritas Portfolio. The in-kind redemption proceeds will consist of the same securities that are currently held by the Replaced Funds. In addition, in seven of the nine substitutions, the organization responsible for providing portfolio management services to the Ameritas Portfolio and the Replaced Portfolio will be the same, and the Ameritas Portfolio involved in substitutions 8 and 9 generally invest in a narrow range of securities and must adhere to strict limits in their investment practices. Applicants represent that the transactions are consistent with the policies of each investment company involved and the general purposes of the 1940 Act, and comply with the requirements of Section 17(b).

7. Applicants state that the facts and circumstances in the application are sufficient to assure that the substitutions will be carried out in a manner that is consistent with Section 17(b) and 26(b) of the 1940 Act and that the terms and conditions to which the relief Applicants request hereby will be subject are consistent with orders the Commission has issued in the past under similar circumstances.

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the substitutions and related transactions involving in-kind transactions should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–26523 Filed 10–8–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the

Securities and Exchange Commission will hold the following meetings during the week of October 11, 1999.

An open meeting will be held on Wednesday, October 13, 1999, at 10 a.m. A closed meeting will be held on Wednesday, October 13, 1999, following the 10 a.m. open meeting.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, October 13, 1999, at 10:00 a.m. will be:

The Commission will consider whether to propose new rules and rule amendments that are designed to enhance the independence and effectiveness of independent directors and to better enable investors to assess the independence of directors. The Commission also will consider whether to issue a companion release that would provide the views of its staff on a number of interpretive issues related to fund directors, and the views of the Commission on its role in disputes between independent directors and fund management. These initiatives follow on discussions at a Roundtable on fund independent directors hosted by the Commission earlier this year. For further information regarding the proposed substantive rule amendments, contact Jennifer B. McHugh at (202) 942–0690; regarding the proposed disclosure rule amendments, contact Heather A. Seidel at (202) 942–0721; or regarding the interpretive release, contact Brendan C. Fox at (202) 942–0660.

The subject matter of the closed meeting scheduled for Wednesday, October 13, 1999, following the 10:00 a.m. open meeting, will be:

Institution and settlement of injunctive actions

Institution and settlement of administrative proceedings of an enforcement nature

Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: October 6, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–26644 Filed 10–7–99; 11:32 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41922; File No. SR–CHX–99–11]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Specialist Retention Periods for Securities Traded on the Exchange

September 27, 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 August 19, 1999, the Chicago Stock Exchange, Incorporated (''CHX'' 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 CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and to approve that portion of the proposal related to securities listed on the exchange on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make permanent a pilot program[3] relating to the time periods for which a co-specialist must trade a security listed on the Exchange prior to deregistering as the specialist for that security as set forth in Article XXX, Rule 1, Interpretation and Policy .01. The Exchange also proposes to adopt separate co-specialist retention periods relating to the time periods for which a co-specialist must trade a Nasdaq National Market (''NM'') security, which are traded on the Exchange pursuant to unlisted trading privileges, prior to deregistering as the specialist for that security. The text of the proposed rule change is available at the CHX and the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The pilot program expired on September 8, 1999.

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 CHX 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 VI below. The CHX 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

(a) Listed Securities: Interpretation and Policy .01 to Article XXX, *Specialists,* Rule 1, *Registration and Appointments,* of the Exchange's rules set forth the procedures for allocating and reallocating securities among specialist units and co-specialists. The Exchange's Committee on Specialist Assignments and Evaluation (''CSAE'') is responsible for appointing specialists and co-specialists[4] and conducting deregistration proceedings in accordance with Article XXX of the Exchange's rules. Several circumstances may lead to the need for assignment or reassignment of a security.[5] One of these circumstances is by specialist request. Subsection 2 of Interpretation and Policy .01 addresses the assignment and reassignment process when a specialist requests deregistration in one or more of its assigned securities. The Exchange amended Subsection 2 on a pilot basis in 1997 to specifically address the deregistration of co-specialists in securities.[6] Under the pilot program, a co-specialist awarded a security in competition was required to trade that security for at least one year before being able to deregister in the security, if no other specialist will be assigned to the security after posting and deregistration.[7] In addition, generally, two years had to elapse before an intra-

[4] A specialist is a ''unit'' or organization that has registered as such with the Exchange under Article XXX, Rule 1. A co-specialist is an individual who has registered such under Article XXX, Rule 1. *See* CHX Rules, Article XXX, Rule 1, Interpretation and Policy .01.4(a).

[5] CHX Rules, Article 1, Rule 1, Interpretation and Policy .01.

[6] Securities Exchange Act Release No. 39028 (Sept. 8, 1997), 62 FR 48329 (Sept. 15, 1997); *see also* Securities Exchange Act Release No. 40408 (Sept. 8, 1998), 63 FR 49375 (Sept. 15, 1998).

[7] Posting means that all specialist are put on notice that the security is available for reassignment.

firm transfer of the issue (*i.e.*, transfer of the issue to another co-specialist within the same specialist unit) would be permitted without posting. For securities awarded to co-specialists without competition, a co-specialist was required to trade the security for three months before being able to deregister in the security if no other specialist would be assigned to the security after posting and deregistration. Finally, no minimum time period was required to elapse before an intra-firm transfer is permitted for non-competitive assignments.

The pilot program was extended for another year in 1998.[8] Based on its success, the Exchange is requesting permanent approval of the requirements of the program.[9]

(b) Nasdaq NM Securities. In addition to requesting permanent approval of the provisions of the pilot program, the Exchange is also proposing to adopt specific retention periods for co-specialists in Nasdaq/NM securities. Because the number of Nasdaq/NM securities that the Exchange can trade pursuant to unlisted trading privileges (''UTP'') is limited,[10] stock allocation issues relating to Nasdaq/NM securities that are distinct from allocation issues relating to other securities trade on the Exchange have developed. Specifically, because of the existing 1,000 security limit on the total number of Nasdaq/NM securities that can be traded UTP on an Exchange-wide basis, co-specialists in Nasdaq/NM securities cannot acquire a new Nasdaq/NM issue until they deregister in an issue they currently trade and that security is removed from the list of Nasdaq/NM securities traded on the Exchange. The current specialist deregistration rules, however, do not provide the flexibility to quickly complete this procedure. In addition, the current rules do not provide Nasdaq/NM specialist firms sufficient flexibility to reallocate stocks awarded in competition between co-specialists within the same specialist unit when a co-specialist's stocks become active and volatile.[11]

To address these concerns, the Exchange is proposing to amend the retention restrictions on co-specialists for Nasdaq/NM securities in Interpretation and Policy .01 to Rule 1. The amended interpretation will permit co-specialists in Nasdaq/NM issues to deregister in an issue more quickly, to allow them to respond to market developments. The proposed amended interpretation will also allow for easier transfer of issues between co-specialists within a specialist unit. Specifically, the proposed rule change specifies no minimum retention periods for Nasdaq/NM issues. In addition, and, subject to the CSAE's continuing authority, the proposal will also permit co-specialists in Nasdaq/NM securities to deregister at any time after providing at least five calendar days notice to order sending firms, and allow intra-firm transfer of Nasdaq/NM securities awarded in competition without a mandatory retention period.[12]

The Exchange intends to ensure that there will be no disruption to the marketplace as a result of relaxed stock retention requirements. The Exchange believes that its recently filed rule change increasing the fee for such transfer to $2,000 will prevent disruptive serial transfers and deregistrations that have not been carefully contemplated by the specialist.[13]

Finally, the proposed amendments relating to Nasdaq/NM securities will only be effective for so long as there is a limit upon the number of Nasdaq/NM issues that can be traded UTP on the Exchange. If the Commission eliminates this limitation, Nasdaq/NM issues and the co-specialists maintaining Nasdaq/NM issues will be subject to the regular retention periods applicable to all other issues traded on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act[14] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons regulating securities transactions, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on completion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited or received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested accelerated approval of the proposed rule filing relating to listed securities. The CHX points out that this portion of the proposed rule change has existed as a pilot for approximately two years, and was previously published in the **Federal Register** and subject to notice and comment. The Exchange believes that the program provides a benefit both to specialists and the investing public by permitting specialists to add or deregister as a specialist in an orderly manner. In light of this, and the fact that the portion of the proposed rule change related to listed securities has already been subject to notice and comment, the Exchange believes that accelerated approval is appropriate in order to reactivate this program on a permanent basis.

With regard to that portion of the proposed rule change related to Nasdaq NM securities, within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

a. By order approve that portion of the proposed rule change related to Nasdaq NM securities, or

b. Institute proceedings to determine whether the portion of the proposed rule change related to Nasdaq NM securities should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[8] Securities Exchange Act Release No. 40408 (Sept. 8, 1998), 63 FR 49375 (Sept. 15, 1998).

[9] Pursuant to the original approval order, the Exchange was required to submit a report to the Commission describing its experience with the pilot program after a one year period. The Exchange submitted the required report and requested an extension of the pilot program for an additional one year period. The Commission again requested a report at the end of one year to further evaluate the program. The Exchange recently submitted this report in anticipation of this rule filing. *See* letter from Daniel J. Liberti, CHX, to Katherine A. England, Assistant Director, Commission dated July 7, 1999.

[10] Securities Exchange Act Rel. No. 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999).

[11] In such a situation, a specialist unit might deem it to be in the best interests of customers and the Exchange to transfer the stock to another co-specialist within the same specialist unit that is assigned to a fewer number of issues or is more experienced.

[12] There is currently no minimum retention period for intra-firm transfers of securities awarded without competition. *See* Article XXX, Rule 1, Interpretation and Policy .01.

[13] Securities Exchange Act Release No. 41569 (June 28, 1999), 64 FR 36726 (July 7, 1999).

[14] 15 U.S.C. 78f(b)(5).

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 submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to the File No. SR–CHX–99–11 and should be submitted by November 2, 1999.

V. Commission Findings and Order Granting Accelerated Approval of the Propose Rule Change

The Commission finds that the portion of the proposed rule change relating to specialist retention periods for listed securities traded on the Exchange is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5) [15] requirements that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.[16]

The Commission finds good cause for approving the portion of the proposed rule change relating to listed securities prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that accelerated approval will promote continuity in specialist retention practices relating to listed securities, as conducted under the recently expired pilot program. In addition, the Commission specifically notes that the pilot program was previously published in the **Federal Register** and operated for several years without comment from the industry or the investing public.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the portion of the proposed rule change (File No. SR–CHX–99–11) relating to listed securities traded on the CHX is hereby approved on an accelerated basis

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–26525 Filed 10–8–99; 8:45 am]

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[15] 15 U.S.C. 78o(b)(5).

[16] 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).

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41975; File No. SR–MSRB–98–08]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Relating to Rule G–38, on Consultants, Rule G–37, Political Contributions and Prohibitions on Municipal Securities Business, Rule G–8, on Books and Records, and Revisions to the Attachment Page to Form G–37/G–38

October 4, 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 June 16, 1998, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Board. On August 26, 1999, the Board filed Amendment No. 1 which replaces and supersedes the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as contained in Amendment No. 1, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On June 16, 1998, the MSRB submitted its initial proposal which amended G–38 to define the meaning of ''reportable contributions,'' outlined what Consultant Agreements should include, and provided dealers with a ''reasonable efforts'' defense. The defense would have held that a dealer does not violate Rule G–38 if the dealer fails to receive all required information from its consultant and thus, fails to report such information to the Board, but can demonstrate that it used reasonable efforts in attempting to obtain the information, including a statement in the dealer's Consultant Agreement that Board rules require disclosure of consultant contributions and payments, and send quarterly reminders to its consultants of the deadline for their submissions to the dealer of the required information. After discussions with the Commission, the Board amended the proposal and published it for comment. *See* Additional Requirements for Pending Amendments on Disclosure of Consultants' Contributions: Rule G–38, MSRB Reports, Vol. 19, No. 2 (April 1999) at 3–7. Amendment No. 1, among other things, modifies the ''reasonable efforts'' defense established in the initial proposal by imposing stricter requirements on dealers in monitoring their consultants' activities.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is proposing to amend Rule G–38, on consultants, Rule G–37, on political contributions and prohibitions on municipal securities business, Rule G–8, on books and records, and to revise the attachment page to Form G–37/G–38. The proposed rule change requires brokers, dealers, or municipal securities dealers (''dealers'') to obtain from their consultants information on the consultants' political contributions and payments to state and local political parties and to report such information to the Board on Form G–37/G–38. The Board has requested that the Commission delay the effectiveness of the proposed rule change until April 1, 2000, to provide time for dealers to revise their contracts with their consultants and to put supervisory procedures in place for compliance with the proposed rule change. Below is the text of the proposed rule change. Additions are italicized; deletions are bracketed.

Rule G–38. Consultants

(a) Definitions.

(i)–(v) No change.

(vi) The term ''reportable political contribution'' means:

(A) if the consultant has had direct or indirect communication with an issuer on behalf of the broker, dealer or municipal securities dealer to obtain or retain municipal securities business for such broker, dealer or municipal securities dealer, a political contribution to an official(s) of such issuer made by any contributor referred to in paragraph (b)(i) during the period beginning six months prior to such communication and ending six months after such communication;

(B) the term does not include those political contributions to official(s) of an issuer made by any individual referred to in subparagraph (b)(i)(A) or (B) of this rule who is entitled to vote for such official if the contributions made by such individual, in total, are not in excess of $250 to any official of such issuer, per election.

(vii) The term ''reportable political party payment'' means:

(A) if a political party of a state or political subdivision operates within the geographic area of an issuer with which the consultant has had direct or indirect communication to obtain or retain municipal securities business on behalf of the broker, dealer or municipal securities dealer, a payment to such party made by any contributor referred to in paragraph (b)(i) during the period beginning six months prior to such communication and ending six months after such communication;

(B) the term does not include those payments to political parties of a state or political subdivision made by any individual referred to in subparagraph (b)(i)(A) or (B) of this rule who is entitled to vote in such state or political subdivision if the payments made by such individual, in total, are not in excess of $250 per political party, per year.

(viii)(The term ''official of such issuer'' or ''official of an issuer'' shall have the same meaning as in rule G–37(g)(vi).

(b) Written Agreement

(i) Each broker, dealer or municipal securities dealer that uses a consultant shall evidence the consulting arrangement by a writing setting forth, at a minimum, the name, company, *business address,* role and compensation arrangement of each such consultant (''Consultant Agreement''). *In addition, the Consultant Agreement shall include a statement that the consultant agrees to provide the broker, dealer or municipal securities dealer with a list by contributor category, in writing, of any reportable political contributions and any reportable political party payments during each calendar quarter made by:*

(A) the consultant;

(B) if the consultant is not an individual, any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the broker, dealer or municipal securities dealer; and

(C) any political action committee controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the broker, dealer or municipal securities dealer.

(ii) The Consultant Agreement shall require that, if applicable the consultant shall provide to the broker, dealer or municipal securities dealer a report that no reportable political contributions or reportable political party payments were made during a calendar quarter.

(iii) The Consultant Agreement shall require that the consultant provide the reportable political contributions and political party payments for each calendar quarter, or report that no reportable political contributions or political party payments were made for a particular calendar quarter, to the broker, dealer or municipal securities dealer in sufficient time for the broker, dealer or municipal securities dealer to meet its reporting obligations under paragraph (e) of this rule.

(iv) [Such] *The* Consultant Agreement must be entered into before the consultant engages in any direct or indirect communication with an issuer on behalf of the broker, dealer or municipal securities dealer.

(c) *Information Concerning Political Contributions to Official(s) of an Issuer and Payments to State and Local Political Parties Made by Consultants.*

(i) A broker, dealer or municipal securities dealer is required to obtain information on its consultant's reportable political contributions and reportable political party payments beginning with a consultant's first direct or indirect communication with an issuer on behalf of the broker, dealer or municipal securities dealer to obtain or retain municipal securities business for such broker, dealer or municipal securities dealer. The broker, dealer or municipal securities dealer shall obtain from the consultant the information concerning each reportable political contribution required to be recorded pursuant to rule G–8(a)(xviii)(F) and each reportable political party payment required to be recorded pursuant to rule G–8(a)(xviii)(G) or, if applicable, a report indicating that the consultant made no reportable political contributions and no reportable political party payments required to be recorded pursuant to rule G–8(a)(xviii)(H).

(ii) The requirement to obtain the information referred to in paragraph (c)(i) of this rule shall end upon the termination of the Consultant Agreement.

(iii) A broker, dealer or municipal securities dealer will not violate this section if it fails to receive from its consultant all required information on reportable political contributions and reportable political party payments and thus fails to report such information to the Board if the broker, dealer or municipal securities dealer can demonstrate that it used reasonable efforts in attempting to obtain the necessary information. Reasonable efforts shall include:

(A) a statement in the Consultant Agreement that Board rules require disclosure of consultant contributions to issuer officials and payments to state and local political parties;

(B) the broker, dealer or municipal securities dealer sending quarterly reminders to its consultants of the deadline for their submissions to the broker, dealer or municipal securities dealer of the information concerning their reportable political contributions and reportable political party payments;

(C) the broker, dealer or municipal securities dealer including in the Consultant Agreement provisions to the effect that:

(1) the Consultant Agreement will be terminated by the broker, dealer or municipal securities dealer if, for any calendar quarter, the consultant fails to provide the broker, dealer or municipal securities dealer with information about its reportable political contributions or reportable political party payments, or a report noting that the consultant made no reportable political contributions or no reportable political party payments, and such failure continues up to the date to be determined by the dealer, but no later than the date by which the broker, dealer or municipal securities dealer is required to send Form G–37/G–38 to the Board with respect to the next succeeding calendar quarter, such termination to be effective upon the date the broker, dealer or municipal securities dealer must send its Form G–37/G–38 to the Board (i.e., January 31, April 30, July 31 or October 31); and

(2) no further payments, including payments owed for services performed prior to the date of termination, shall be made to the consultant by or on behalf of the broker, dealer or municipal securities dealer as of the date of such termination; and

(D) the broker, dealer or municipal securities dealer enforcing the Consultant Agreement provisions described in paragraph (c)(iii)(C) of this rule in a full and timely manner and indicating the reason for and date of the termination on its Form G–37/G–38 for the applicable quarter.

(d) Disclosure to Issuers. Each broker, dealer or municipal securities dealer shall submit in writing to each issuer with which the broker, dealer or municipal securities dealer is engaging or is seeking to engage in municipal securities business, information on consulting arrangements relating to such issuer, which information shall include the name, company, *business address,* role and compensation arrangement of any consultant used, directly or indirectly, by the broker, dealer or municipal securities dealer to attempt to obtain or retain municipal securities business with each such issuer. Such

information shall be submitted to the issuer either:

(i)–(ii) No change.

[(d)] *(e)* Disclosure to Board. Each broker, dealer and municipal securities dealer shall send to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending, and the Board shall make public, reports of all consultants used by the broker, dealer or municipal securities dealer during each calendar quarter. Two copies of the reports must be sent to the Board on Form G–37/G–38 by the last day of the month following the end of each calendar quarter (these dates correspond to January 31, April 30, July 31, and October 31). Such reports shall include, for each consultant, in the prescribed format, the consultant's name, company, *business address,* role, [and] compensation arrangement, *any municipal securities business obtained or retained by the consultant with each such business listed separately, and, if applicable, dollar amounts paid to the consultant connected with particular municipal securities business.* [In addition, s] *S*uch reports shall indicate the *total* dollar amount of payments made to each consultant during the report period [and, if any such payments are related to the consultant's efforts on behalf of the broker, dealer or municipal securities dealer which resulted in particular municipal securities business, then that business and the related dollar amount of the payment must be separately identified]. *In addition, such reports shall include the following information to the extent required to be obtained during such calendar quarter pursuant to paragraph (c)(i) of this rule:*

(i)(A) the name and title (including any city/county/state or political subdivision) of each official of an issuer and political party receiving reportable political contributions or reportable political party payments, listed by state; and

(B) contribution or payment amounts made and the contributor category of the persons and entities described in paragraphs (b)(i) of this rule; or

(ii) if applicable, a statement that the consultant reported that no reportable political contributions or reportable political party payments were made; or

(iii) if applicable, a statement that the consultant failed to provide any report of information to the dealer concerning reportable political contributions or reportable political party payments.

Once a contribution or payment has been disclosed on a report, the dealer should not continue to disclose that particular contribution or payment on subsequent reports.

Rule G–8. Books and Records To Be Made by Brokers, Dealers and Municipal Securities Dealers

(a) Description of Books and Records Required to be Made. Except as otherwise specifically indicated in this rule, every broker, dealer and municipal securities dealer shall make and keep current the following books and records, to the extent applicable to the business of such broker, dealer or municipal securities dealer:

(i)–(xvii) No change.

(xviii) Records Concerning Consultants Pursuant to Rule G–38. Each broker, dealer and municipal securities dealer shall maintain:

[(i)] *(A)* a listing of the name, company, *business address,* role and compensation arrangement of each consultant;

[(ii)] *(B)* a copy of each Consultant Agreement referred to in rule G–38(b);

[(iii)] *(C)* a listing of the compensation paid in connection with each such Consultant Agreement;

[(iv)] *(D)* where applicable, a listing of the municipal securities business obtained or retained through the activities of each consultant;

[(v)] *(E)* a listing of issuers and a record of disclosures made to such issuers, pursuant to rule G–38 [(c) *(d),* concerning each consultant used by the broker, dealer or municipal securities dealer to obtain or retain municipal securities business with each such issuer; [and]

[(vi)] *(F)* records of each reportable political contribution (as defined in rule G–38(a)(vi)), which records shall include:

(1) the names, city/county and state of residence of contributors;

(2) the names and titles (including any city/county/state or other political subdivision) of the recipients of such contributions; and

(3) the amounts and dates of such contributions;

(G) records of each reportable political party payment (as defined in rule G–38(a)(vii)) which records shall include:

(1) the names, city/county and state of residence of contributors;

(2) the names and titles (including any city/county/state or other political subdivision) of the recipients of such payments; and

(3) the amounts and dates of such payments;

(H) records indicating, if applicable, that a consultant made no reportable political contributions (as defined in rule G–38(a)(vi)) or no reportable political party payments (as defined in rule G–38(a)(vii));

(I) a statement, if applicable, that a consultant failed to provide any report of information to the dealer concerning reportable political contributions or reportable political party payments; and

(J) the date of termination of any consultant arrangement.

(xix) No change.

(b)–(f) No change.

Rule G–37. Political Contributions and Prohibitions on Municipal Securities Business

(a)–(d) No change.

(e)(i)(A)–(C) No change.

(D) any information required to be disclosed pursuant to section [(d)]*(e) of rule G–38; and*

(E) No change.

(ii)–(iii) No change.

(f)–(i) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Background

Rule G–37 [4] among other things, prohibits a dealer from engaging in municipal securities business with an issuer within two years after certain contributions to an official of such issuer made by the dealer, any municipal finance professional associated with such dealer, or any political action committee (''PAC'') controlled by the dealer or any municipal finance professional. Rule G–37(d) prohibits a dealer and any municipal finance professional from doing any act indirectly which would result in a violation of the rule if done directly by the dealer or municipal finance professional. Thus, a dealer would violate Rule G–37 by engaging in municipal securities business with an

[4] MSRB Manual, General Rules, Rule G–37 (CCH) 3681.

issuer after directing any person to make a contribution to an official of such issuer. As indirect activities are often difficult to prove, the Board believes that additional information about consultant arrangements should be made available to issuers and the public in order to maintain the integrity of the market. Accordingly, the Board adopted Rule G–38.[5]

Rule G–38 requires dealers who use consultants [6] to evidence the consulting arrangement in writing (referred to as a ''Consultant Agreement'').[7] Rule G–38(c) requires each dealer to disclose to an issuer with which it is engaging or seeking to engage in municipal securities business, in writing, information on consulting arrangements relating to such issuer. The written disclosure must include, at a minimum, the name, company, role and compensation arrangement with the consultant or consultants. Dealers are required to make such written disclosures either prior to the issuer's selection of any dealer in connection with the municipal securities business being sought, or at or prior to the consultant's first direct or indirect communication with the issuer for any municipal securities business. Rule G–38(d) requires dealers to submit to the Board, on a quarterly basis, reports of all consultants used by the dealer.[8] For each consultant, dealers must report the consultant's name, company, role and compensation arrangement, as well as the dollar amount of any payment made to the consultant during the quarterly reporting period.[9]

As mentioned above, one of the reasons the Board adopted Rule G–38 was because of its concern that dealers might be circumventing Rule G–37 by using consultants to make political contributions. There also was concern about dealers hiring consultants who had made their own contributions to issuer officials.[10] The Rule G–38 reporting and recordkeeping requirements seek to make information public about the consultants that dealers have hired and the municipal securities business obtained through such consultants. One reason the Board sought this public disclosure was so that reporters and others could investigate further whether there was a connection between contributions given by consultants and the business they obtained for the dealers that hired them. The Board determined to adopt the proposed rule change to Rule G–38 because of concern that, given the increased enforcement of Rule G–37, more dealers may seek to circumvent Rule G–37 by hiring consultants who make substantial contributions to issuer officials.

2. Summary of Proposed Rule Change

The proposed rule change would require a dealer to receive and report certain contribution and payment information from: the consultant; any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the dealer; and, any PAC controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer.[11] A dealer would be required to include within its Consultant Agreement a statement that the consultant agrees to provide the dealer each calendar quarter with a listing of reportable political contributions to official(s) of an issuer and reportable payments to political parties of states and political subdivisions during such quarter, or a report that no reportable political contributions or reportable political party payments were made, as appropriate.[12]

The proposed rule change would require a dealer to obtain information from its consultants about the contributions made to issuer officials only if the consultant has had direct or indirect communication with such issuer to obtain municipal securities business on behalf of the dealer.[13] The political party payments required to be reported are limited to those made to political parties of states and political subdivisions that operate within the geographic area of the issuer with whom the consultant communicates on behalf of the dealer (*e.g.*, city, county and state parties). The date that establishes the obligation for the collection of contribution information is the date of the consultant's communication with the issuer to obtain municipal securities business on behalf of the dealer.

With respect to the collection of contribution and payment information, the proposed rule change contains a six-month ''look-back'' as well as a six-month ''look-forward'' provision from the date of communication with an issuer. Thus, a consultant must disclose to the dealer the contributions and payments made by the consultant

[5] MSRB Manual, General Rules, Rule G–38 (CCH) 3686.

[6] Rule G–38(a)(i) defines the term ''consultant'' as any person used by a dealer to obtain or retain municipal securities business through direct or indirect communication by such person with an issuer on the dealer's behalf where the communication is undertaken by such person in exchange for, or with the understanding of receiving, payment from the dealer or any other person.

[7] Rule G–38 requires that the Consultant Agreement, at a minimum, include the name, company, role and compensation arrangement of each consultant used by the dealer. The Consultant Agreement must be entered into before a consultant engages in any direct or indirect communication with an issuer on the dealer's behalf.

[8] Such reports must be filed on Form G–37/G–38.

[9] In addition, if any payment made during the reporting period is related to the consultant's efforts on behalf of the dealer which resulted in particular municipal securities business, whether the municipal securities business was completed during that or a prior reporting period, then the dealer must separately identify that business and the dollar amount of the payment.

[10] In October 1993, at the urging of SEC Chairman Arthur Levitt, 19 major dealers agreed to a Statement of Initiative (''Initiative'') to support the principle that political contributions which are intended to influence the awarding of municipal securities should be prohibited. Within a few months, another 36 dealers ''signed on'' to the Initiative. Interpretation No. 1 was issued on December 6, 1993, and among other things, provides requirements for a dealer that uses a consultant to obtain or retain municipal securities business. This interpretation requires, among other things, that a dealer have a written agreement with the consultant and that such agreement prohibit the consultant, its officers, directors, partners, and non-clerical employees from making any political contributions or other payments, directly or indirectly, for the purposes of obtaining or retaining municipal securities business.

[11] A ''consultant'' in Rule G–38 can refer to an individual or a company (*e.g.*, a bank affiliated with a bank dealer). For example, if an individual is a consultant, this individual would report to the dealer only his or her contributions and payments and the contributions of any PAC controlled by such individual. If the consultant is a company, the company would report its contributions and payments to the dealer, as well as those made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer, and any PAC controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer.

[12] The *de minimis* exception for contributions to official(s) of an issuer provides that a consultant need not provide to a dealer information about contributions made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer to any official of an issuer for whom such individual is entitled to vote if such individual's contributions, in total, are not in excess of $250 to each official of such issuer, per election. Similarly, the *de minimis* exception for payments provides that a consultant need not provide to a dealer information about payments to political parties of a state or political subdivision made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer who is entitled to vote in such state or political subdivision if the payments by the individual, in total, are not in excess of $250 per political party, per year.

[13] A dealer must disclose contributions with respect to those issuers from which a consultant seeking municipal securities business on behalf of the dealer, regardless of whether contributions are going to and communications are occurring with the same or different personnel within that particular issuer.

during the six months prior to the date of the consultant's communication with the issuer.[14] So too, if the consultant's communication with an issuer continues, any reportable contributions and payments would be required to be disclosed. Once communication ceases, the consultant still must disclose contribution and payment information for six months.[15] The Board believes these provisions are important in providing information for a minimum period of one year about any consultant contributions to officials of an issuer with whom the consultant communicated on behalf of a dealer to obtain municipal securities business. This should help to identify any situations in which contributions could have influenced the awarding of municipal securities business. The proposed rule change would require dealers to keep records under Rule G–8 of all reportable political contributions and all reportable political party payments.

A dealer's requirement to collect contribution and payment information from its consultants ends when a Consultant Agreement has been terminated.[16] Of course, dealers should not attempt to avoid the requirements of Rule G–38 by terminating a consultant relationship after directing or soliciting the consultant to make a political contribution to an issuer official after such termination. Rule G–37(d) prohibits a dealer from doing any act indirectly which would result in a violation of Rule G–37 if done directly by the dealer. Thus, a dealer may violate Rule G–37 by engaging in municipal securities business with an issuer after directing or soliciting any person to make a contribution to an official of such issuer.

The proposed rule change would require that the information obtained by dealers concerning their consultant's contributions and payments be submitted by dealers to the Board on Form G–37/G–38.[17] The disclosures required by the proposed rule change are reflected in the draft changes to Form G–37/G–38. The draft changes require dealers to disclose on the attachment sheet for each consultant used by the dealer the contributions and payments covered by the rule or that no such contributions or payments were made for such quarter. Further, a dealer must disclose if a consultant has failed to provide it with a report concerning its contributions and payments. When completing the form, a dealer must disclose, in addition to the other required information, the calendar quarter and year of any reportable political contributions and reportable political party payments that were made prior to the calendar quarter of the form being completed (*e.g.*, contributions and payments made in a prior quarter that are reportable as a result of the six-month look-back). Reportable ''look-back'' contributions and payments also must be disclosed on the Form G–37/G–38 for the quarters in which the consultant has communicated with an issuer to obtain municipal securities business on behalf of a dealer.[18] Once a contribution or payment has been disclosed on a report, a dealer should not continue to disclose that particular contribution or payment on subsequent reports. The attachment page to Form G–37/G–38 also has been revised to require dealers to separately identify all of the municipal securities business obtained or retained by the consultant for the dealer.[19]

The proposed rule change includes a ''reasonable efforts'' provision that allows dealers to rely in good faith on information received from their consultant regarding contributions and payments. The reasonable efforts provision provides that a dealer will not violate Rule G–38 if the dealer fails to receive from its consultant all required contribution and payment information and thus fails to report such information to the Board if the dealer can demonstrate that it used reasonable efforts in attempting to obtain the necessary information. However, to avail itself of the reasonable efforts provision, a dealer must:

(1) State in its Consultant Agreement that Board rules require disclosure of consultant contributions and payment;

(2) Send quarterly reminders to consultant of the deadline for their submissions to the dealer of contribution information;

(3) Include language in the Consultant Agreement to the effect that: (a) The Consultant Agreement will be terminated if, for any calendar quarter, the consultant fails to provide the dealer with information about its reportable contributions or payments, or a report noting that the consultant made no reportable contributions or payments, and such failure continues up to the date to be determined by the dealer but no later than the date by which the dealer is required to send Form G–37/G–38 to the Board with respect to the next succeeding calendar quarter, such termination to be effective upon the date the dealer must send its Form G–37/G–38 to the Board, and (b) the dealer may not make any further payments to the consultant, including payments owed for services performed prior to the date of termination, as of the date of such termination; and

(4) Enforce the Consultant Agreement provisions described above in a full and timely manner and indicate the reason for and date of the termination on its Form G–37/G–38 for the applicable quarter.

The failure by a dealer to include the termination and non-payment provisions in a Consultant Agreement or to enforce any such provisions that may be contained in the Consultant Agreement, would not, in and of itself, constitute a violation of Rule G–38 but would instead preclude the dealer from invoking the reasonable efforts provision as a defense against a possible violation for failing to disclose consultant contribution information, which the consultant may have withheld from the dealer.

Finally, the proposed rule change contains a clarifying amendment to Rule G–38(b)(i)(B), and a technical amendment to Rule G–37(e)(i)(D) to conform to the amendments to Rule G–38.

The Board is very concerned about consultants making contributions to obtain municipal securities business on behalf of the dealer and, while the Board, at this time, is only requiring disclosure of consultants' political contributions and payments to state and local political parties, it will be paying close attention to this issue. The Board will take whatever further steps it feels are necessary to sever the connection between the giving of political

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[14] Such contributions and payments become reportable in the calendar quarter in which the consultant first communicates with the issuer.

[15] Contributions and payments made simultaneously with or after the consultant's first communication with the issuer are reportable in the calendar quarter in which they are made.

[16] A dealer that terminates a Consultant Agreement would of course be obligated to obtain information regarding contributions and payments made up to the date of termination.

[17] The proposed rule change also requires dealers to report the consultant's business address on Form G–37/G–38.

[18] If the amendments to Rule G–38 become effective on April 1, 2000, as the Board has requested, on the reports for the second quarter of 2000 (required to be sent to the Board by July 31, 2000) dealers would be required to disclose their consultants' reportable political contributions and reportable political party payments for the second quarter of 2000 and include, pursuant to the six-month look-back, reportable political contributions and reportable political party payments since October 1, 1999.

[19] The existing version of the form requires dealers to list only the municipal securities business obtained or retained by the consultant in which the consultant was paid a specific dollar amount for the particular municipal securities business.

contributions and the awarding of municipal securities business.

The Board believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.[20]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In September 1997, the Board published a notice that proposed for comment draft amendments to Rules G–38 and G–8 and revisions to Form G–37/G–38 that would require dealers to disclose their consultants' political contributions to officials of an issuer and payments to state and local political parties.[21] In response to its request for comments, the Board received comment letters from Cox Newspapers, Piper Jaffray Companies, Inc. (''Piper Jaffray''), and The Bond Market Association (''TBMA'').

1. Payments to State and Local Political Parties

TBMA and Piper Jaffray recommended that the draft amendments be modified to make clear that only those contributions to state and local political parties operating within the jurisdiction of the issuer which is the subject of the Consultant Agreement must be reported. TBMA stated that the reporting of all contributions to state and local political parties by consultants (except for the $250 *de minimis*) ''would impose an unfair burden on all dealers employing consultants to monitor and report on all contributions to state and local political parties by independent third party market participants even though there was no nexus or other reasonable relationship between those political parties and the purpose of employing the consultant.'' Pipeer Jaffray stated that requiring a dealer to ''monitor and report all political contributions to state and local parties of a consultant and their corporate PAC, even when there is no relationship between the political party and the purpose of employing the consultant, is time consuming.''

The Board determined to revise the draft amendments to limit the political party contributions required to be reported to those made to political parties of states and political subdivisions that operate within the geographic area of the issuer with whom the consultant communicates on behalf of the dealer.[22] This is consistent with the requirements for reporting contributions.

2. Consultant's Business Address

Cox Newspaper suggested that Rule G–38 require disclosure of the address and telephone number of the consultant or (when applicable) the address and telephone number of the consultant's company. It noted that such information would help in contacting consultants to ask questions about connections between contributions and business and in checking campaign finance reports. It also noted that this information helps to avoid confusion with other people who have the same name as the consultant. Finally, it noted that the Federal Election Commission (''FEC'') regulations require the address of any contributor of $200 or more as one of the items that must be reported by political committees.

The Board revised the draft amendments to Rule G–38 to require that the consultant's business address be reported on Form G–37/G–38.[23] This requirement is similar to the FEC regulations. Including the address would be helpful for anyone trying to contact the consultant to inquire about contributions or any other consultant information contained on Form G–37/G–38. The Board believes that requiring dealers to include consultants' telephone numbers could lead to unnecessary calls to the consultant; however, by requiring that the disclosure of addresses for consultants, anyone wishing to call a consultant should be able to obtain the telephone number.

3. Additional Time for Reporting Consultants' Contributions and Payments

TBMA and Piper Jaffray recommended that the draft amendments to Rule G–8 be modified to allow for more time in which to report the information received from consultants pursuant to Rule G–38. TBMA stated that, ''[i]n order to meet the 30-day deadline, dealers would have to impose a much earlier deadline on their consultants, which would give consultants less time to collect the information and transmit it to the dealers * * *. This lack of time would make it extremely difficult, and perhaps impossible, for dealers to collect all the required information for reporting in time allowed.'' TBM and Piper Jaffray stated that it would be more appropriate to require consultant contributions to be included in the report filed for the quarter following the making of any political contributions. TBMA stated that ''[t]he additional 90 days would allow dealers to ensure that all of the consultants have reported and that the filed G–37/T–38 forms are completed properly.''

The Board understands why dealers would wish more time to report their consultants' contributions and payments. However, the Board is concerned that industry participants could view this delay of up to six months in reports of consultant contributions and payments as a weakening of the rule. Thus, the Board determined not to grant additional time to report consultant contributions and payments.

4. Good Faith Defense

TBMA and Piper Jaffray stated that dealers should not be required to guarantee the accuracy of the information they obtain from their consultants, and TBMA stated that dealers should not ''be expected to conduct any investigation into the accuracy or completeness of the information provided to the.'' TBMA recommended that Rule G–38 ''include language which will afford dealers confidence that they may in good faith rely upon the information they receive from their consultants in submitting their reports.''

The Board believes it is reasonable to allow dealers to rely in good faith on their consultants' reports and that it would be almost impossible for dealers to investigate for contributions made by their consultants that were not reported. The amendments originally filed with the Commission stated that a dealer will not violate Rule G–38 if it fails to

[20] Section 15B(b)(2)(C) states that the Board's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

[21] ''Disclosure of Consultants' Political Contributions and Payments,'' MSRB Reports, Vol. 17, No. 3 (October 1997) at 3–7.

[22] The proposed rule change contains a *de minimis* exception from the reporting of consultants' payments to political parties in which such consultant is entitled to vote if the payments are not in excess of $250 per political party, per year.

[23] Rule G–8(a)(xviii) was also amended to require a dealer to maintain a record of a consultant's business address.

receive from its consultant all required contribution and payment information and thus, fails to report such information to the Board if the dealer can demonstrate that it used reasonable efforts in attempting to obtain the necessary information. The FEC has similar requirements for reporting of contribution information by various entities. The amendments originally filed with the Commission stated that ''reasonable efforts'' would include having a dealer: (1) State in the Consultant Agreement that Board rules require disclosure of consultant contributions and payments, and (2) send quarterly reminders to consultants of the deadline for their submissions to the dealer of contribution and payment information.

In January 1999, the Commission staff recommended to Board staff that the reasonable efforts provisions contain two additional requirements: (1) The dealer must disclose in its quarterly filings any consultant that does not provide a report of the information required by the rule, and (2) the dealer must terminate the contract should the consultant fail to provide such report by the next calendar quarter after it was due, and the dealer must not make any further payments pursuant to the Consultant Agreement. The Commission staff stated that these additional requirements to the reasonable efforts provision should ensure that all required information on contributions is obtained from consultants. On April 19, 1999, the Board published a notice for comment concerning the additional requirements for the amendments pending at the Commission concerning the disclosure of consultants' contributions.[24] The Board received five comment letters in response to its request for comments on these additional requirements. Comment letters were received from the American Bankers Association (''ABA''); First Kentucky Securities Corp. (''First Kentucky''); State Treasurer, State of Washington (''Washington State Treasurer''); TBMA; and Wells Fargo & Company (''Wells Fargo'')

In general, none of the commenters offered support for the additional requirements. The Washington State Treasurer stated that he objects to the additional requirements ''as both unnecessary and inappropriate.'' TBMA stated that the additional requirements ''represent excessive micromanagement of dealers' business.'' Specific comments are summarized and discussed below.

1. De Minimus Exemption From Reporting

Wells Fargo asked that ''the Board enlarge the scope of the *de minimus* contribution exemption contained in [r]ules G–37 and G–38.'' It noted that a ''general *de minimus* exemption for all elections and the elimination of the reporting requirements for both *de minimus* contributions and no contributions would greatly ease the reporting burden.'' In addition, Wells Fargo stated that ''[a] more limited approach would be to expand the *de minimus* exemption to the state and/or metropolitan area in which the person making the contribution works or lives.''

The ABA also noted that ''given the contiguous state borders in many metropolitan areas * * * and the geographic freedom provided by the Internet, it is far more likely that individuals may wish to make contributions outside of those jurisdictions in which they can vote.'' The ABA ''recommends that the *de minimus* exception of $250 per candidate apply to all elections, rather just than to candidates for whom an individual may vote'' because ''expanding the scope of the exemption would go far toward eliminating the burden of the proposed rule.''

Response: The *de minimus* exemption in the proposed amendments does not require disclosure of certain contributions to issuer officials for whom a consultant is entitled to vote. This exception is similar to that in Rule G–37. The Commission addressed the issue of the *de minimus* exemption and its scope in Rule G–37 in its order approving that rule.[25] The Commission noted that it

> believes that the MSRB's determinations as to the amount of the *de minimus* exemption and limiting its application to contributions to officials for whom the municipal finance professional is entitled to vote are appropriate and reasonable. As discussed, the proposal provides specific guidelines to prevent ''pay to play'' contributions. The proposal provides an appropriate balance between limiting ''pay to play'' practices and the ability of dealers and their employees to demonstrate support for state and local candidates. The proposal recognizes that certain contributions made for legitimate political purposes present less risk of a conflict of interest or the appearance of a conflict of interest. Although an individual may have a legitimate interest in making contributions to candidates for whom she is ineligible to vote, there is a greater risk in such circumstances that the contribution is motivated by an improper attempt to influence municipal officials. Thus, the proposal enables municipal finance professionals to contribute $250 per election to candidates for whom they are entitled to vote without triggering the proposal's business limitation. As discussed, the proposal does not prevent dealers or their employees from demonstrating support for local and state officials in other ways including volunteer political campaign activity.[26]

Also, the proposed rule change does not require a dealer to obtain information about *all* political contributions made by its consultants. A dealer must obtain information from its consultants about the contributions made to issuer officials *only* if the consultant has had direct or indirect communication with such issuer to obtain municipal securities business on behalf of the dealer. The political party payments required to be reported are limited to those made to political parties of states and political subdivisions that operate within the geographic area of the issuer with whom the consultant communicates on behalf of the dealer (*e.g.*, city, county and state parties). The date that establishes the obligation for the collection of contribution information is the date of the consultant's communication with the issuer to obtain municipal securities business on behalf of the dealer.

2. Requirement To Terminate Consultant Agreement

The Washington State Treasurer stated that requiring dealers to terminate their Consultant Agreements with consultants who fail to provide information about their reportable political contributions ''is not in the public's best interest, for it deprives municipal securities dealers of any opportunity to exercise independent judgment.''

The ABA stated that ''it is unclear from the proposed language * * * whether or not a dealer would be prohibited from paying a consultant whose contract the dealer was required to terminate pursuant to [r]ule G–38, for work that had already been performed under the contract.'' The ABA ''believes that the rule should make clear that even at termination, a dealer may still avail itself of the 'reasonable efforts' defense if it pays a consultant for work that was completed prior to the date of termination.'' The ABA further stated that ''[a]bsent such a clarification, the dealer could find itself liable for breach of the Consultant Agreement with respect to work already performed.''

[24] ''Additional Requirements for Pending Amendments on Disclosure of Consultants' Contributions,'' *MSRB Reports*, Vol. 19, No. 2 (April 1999) at 3–7.

[25] Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994).

[26] *Id.*

TBMA states that ''it may be impossible to suspend all payments of compensation to the consultant at the time of termination of the contract—if, for example, the consultant has not billed for services previously rendered, or there is a billing dispute that has not been resolved.'' TBMA believes the ''prohibition should more appropriately be limited to payment for services rendered after the date of termination.''

Response: The Board feels strongly that Rule G–38 should require the disclosure of consultants' contributions and dealers should be able to avail themselves of a reasonable efforts defense if they wish to do so. The provision relating to termination of the Consultant Agreement with a consultant that does not provide the required information is a pre-condition to invoking the reasonable efforts defense. A dealer that does not terminate the Consultant Agreement in these instances does not violate Rule G–38, but it does lose its ability to invoke the reasonable efforts defense.

The Board believes that the issue of a prohibition on further payments to a consultant at the time of termination of the Consultant Agreement can be addressed by dealers including a specific provision in their Consultant Agreements. This provision can indicate that, on the date of termination of the Consultant Agreement by the dealer because of the consultant's failure to report the required information, no further payments will be provided by the dealer to the consultant, including payments for services performed by the consultant prior to the date of termination. In addition, to address any uncertainty in the rule language about payments for prior services, the proposed rule change would amend Rule G–38 to note specifically that the prohibition on further payments at the time of termination of the Consultant Agreement includes payments for services performed prior to the date of termination. It is not clear what TBMA means by limiting payment for services rendered after the date of termination because, presumably, a consultant would not be performing services for which it would expect to be paid after the Consultant Agreement has been terminated.

3. Consultant Activities Other Than Seeking Municipal Securities Business

The ABA stated that ''it is likely that agreements with consultants may cover activities in addition to municipal securities consulting'' and that ''[i]n such instances, the requirement to terminate should apply only to that portion of the contract subject to [r]ule G–38.''

Response: Rule G–38(b) requires a dealer that uses a consultant to have a written Consultant Agreement. The Consultant Agreement, pursuant to Board rules, addresses a consultant's activities on behalf of a dealer in which the consultant is used to obtain or retain municipal securities business. If a Consultant Agreement includes other activities unrelated to municipal securities activities pursuant to Rule G–38, the requirement to terminate the Consultant Agreement would apply only to the activities covered by Rule G–38. If a dealer has only one contract with a consultant, presumably the dealer could demonstrate to an enforcement agency that, depending upon the facts and circumstances, terminating the consultant's Rule G–38 activities and ceasing payments with respect to such Rule G–38 activities, while the consultant continues other consulting activities and receives payments from the dealer for such activities, would meet the pre-conditions for invoking the reasonable efforts defense. A dealer may wish to consider having a separate contract or contracts with a consultant for these additional activities in addition to the Consultant Agreement that conforms to the requirements of Rule G–38.

4. Participation in the Political Process

Wells Fargo stated that it is ''very concerned about the chilling effect that the adoption of the proposed rule will have on participation in the political process.''

Response: The proposed rule change requires dealers to record and report information about certain political contributions and payments to state and local political parties received from their consultants. The proposed rule change does not prohibit political contributions or payments to political parties; therefore, there should be no chilling effect on participation in the political process.

5. Reporting

Wells Fargo stated that it ''is concerned about the burden that the proposed reporting requirements will impose.'' It noted that the ''broad definition of 'consultant' in the [r]ule may subject bankers who provide referrals for municipal securities underwriting business to the reporting and disclosure rules.'' The ABA found that ''the proposed requirements to monitor the political contributions of consultants through quarterly reports to the Board and quarterly reminders to non-complaint consultants will impose significant regulatory burdens on financial institutions operating nationwide that rely on cross-selling of affiliates' products as a significant part of their marketing strategy.''

Response: Rule G–38 has always required that dealers record and report certain information about their consultants every quarter, the amendments add additional items of information that must be recorded and reported. While the additional information may be an added burden on dealers, the Board believes it is important that dealers obtain and report the information so that consultants' political contributions can be reviewed in order to determine whether there are issues that should be addressed, possibly through future Board rulemaking.

The ABA mentioned the ''regulatory burden'' of dealers sending ''quarterly reminders to *non-compliant* consultants.'' [emphasis added] One of the requirements of the reasonable efforts provision for dealers that wish to avail themselves of such a defense is that dealers send quarterly reminders to their consultants of the deadline for their submissions to the dealer of their reportable contribution information; there is no reference to non-compliant consultants in this regard.

6. Recordkeeping

First Kentucky stated that the amendment to Rule G–8(a)(xviii)(H), which requires dealers to maintain records indicating, if applicable, that a consultant made no reportable political contributions or political party payments, is unnecessary and is another opportunity for the enforcement agencies to cite dealers for improper record retention. Wells Fargo stated that the requirement for dealers to report when no contributions have been made by consultants will be burdensome.

Response: The amendments in the original filing required dealers to receive from their consultants reports on any reportable contributions, but the amendments did not contain a requirement for dealers to receive reports if no such contributions were made. To establish a complete record of the information being reported by consultants, Amendment No. 1 revises the amendments in the original filing to require dealers to receive reports every quarter from their consultants listing all reportable contributions or stating that the consultants made no reportable contributions, as appropriate. A dealer would then indicate the contributions reported or that a consultant had no contributions to report, as appropriate, on its Form G–37/G–38 for the

applicable quarter. The proposed rule change requires dealers to disclose if they did not receive a report from a consultant during a particular quarter. Thus, if a consultant does not submit a report to the dealer for a particular quarter, the dealer must report this fact on its Form G–37/G–38.

For recordkeeping purposes, the proposed amendments to Rule G–8 establish a complete record of the reports submitted by consultants. These amendments require a dealer to maintain: (1) Records of each reportable political contribution; (2) records of each reportable political party payment; (3) records indicating, if applicable, that a consultant made no reportable political contributions or no reportable political party payments; and (4) a statement, if applicable, that a consultant failed to provide any report of information to the dealer concerning reportable political contributions or reportable political party payments.

Although some dealers may believe the requirements to report and maintain records indicating that a consultant made no reportable political contributions would be burdensome, such reports and records provide a complete record of a consultant's contributions. If it should be determined later that a consultant did in fact make a reportable contribution after reporting that no reportable contributions were made, the dealer will have a record to demonstrate that the consultant hid the contribution information from the dealer.

7. List of Consultants That Have Been Subject to Termination

TBMA stated that ''a dealer will have no way to knowing whether the consultant it uses has complied with similar obligations to other dealers in the past'' and it suggested that the Board ''could remedy this situation by posting on its website a list of consultants that have been subject to termination as a result of their failure to comply with these disclosure provisions.'' TMBA noted that ''[t]his would also serve to create a strong disincentive to the consultant to disregard its contractual obligations in this manner.''

Response: The Board posts on its web site the Forms G–37/G–38 it receives. The porposed amendment to Rule G–38 include a requirement for a dealer wishing to rely on the reasonable efforts provision to indicate on its Form G–37/G–38 the reason for the date of termination of the Consultant Agreement in thos instances in which a Consultant Agreement has been terminated because the consultant did not provide the required informaiton concerning reportable political contributions and political party payments. Thus, information about Consultant Agreements terminated for failure to provide the required information will be available for review on the Board's web site. In addition, if a dealer is concerned about whether a potential consultant has provided the required informaiton in the past to other dealers, the dealer can ask the consultant to address the issue and/or the issue can be addressed in the Consultant Agreement.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Board has requested that the Commission delay the effectiveness of the proposed rule change until April 1, 2000. Within 35 days of the date of publication of this notice in the **Federal Register** of within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriated and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested people are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. People making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–98–08 and should be submitted by November 2, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[27]

Johathan G. Katz,

Secretary.

[FR Doc. 99–26524 Filed 10–8–99; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before November 12, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Surety Bond Guarantee Graduation Questionnaire.

Form No: 1972.

Frequency: On Occasion.

Description of Respondents: Surety Companies Participating in the SBA's Surety Bond Guarantee Program.

Annual Responses: 29.

Annual Burden: 2.5.

Dated: October 5, 1999.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–26560 Filed 10–8–99; 8:45 am]

BILLING CODE 8025–01–U

[27] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Request for Emergency Review by the Office of Management and Budget

The Social Security Administration publishes a list of information collection packages that will require clearance by OMB in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection listed below has been submitted to OMB for emergency clearance. OMB approval has been requested by October 19, 1999. Comments will be most useful if received before that date.

0960–NEW. SSA has contracted with the Gallup Organization to conduct surveys to gather data on the public's level of knowledge about Social Security programs. The 1998 Public Understanding Measurement System survey (PUMS) indicated that 45 percent of the population have a lack of understanding of the major Social Security program areas. The 1999 and future Public Understanding Measurement System surveys (PUMS II) will enable SSA to build upon the 1998 PUMS quantitative baseline measure of public understanding. An annual survey will provide annual tracking data of public understanding of SSA programs against which the outcomes of SSA performance improvement efforts can be assessed. Quarterly targeted surveys in 16 SSA areas will test the effectiveness of several specific communications and public information outreach efforts.

PUMS II is essential to SSA's goal of strengthening public understanding about Social Security programs. The relevant Agency goal contained in SSA's strategic plan is that by the year 2005, 90 percent of all American adults will be knowledgeable about Social Security programs in five broad areas: basic program facts; the financial value of programs to individuals; the economic and social impact of SSA programs; how the programs are financed today; and financing issues. The respondents will be randomly selected adults residing in the United States.

	Annual surveys	Quarterly Surveys
Number of Respondents	4,000	12,000
Frequency of Response	1	1
Average Burden Per Response	[1] 12	[1] 12
Estimated Annual Burden	[2] 800	[2] 2,400

[1] In minutes.
[2] In hours.

To receive a copy of the surveys or the clearance packages, call the SSA Reports Clearance Officer on (410) 965–4145 or write to him at the address listed below. Written comments and recommendations regarding the information collection(s) should be directed to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB) Office of Management and Budget, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.

(SSA) Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

Dated: October 5, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–26460 Filed 10–8–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–6237]

Great Lakes Pilotage Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications; reopening of application deadline; correction.

SUMMARY: The Coast Guard reopens the deadline for applications for membership on the Great Lakes Pilotage Advisory Committee (GLPAC) and corrects information regarding payment of travel expenses and per diem for members. GLPAC advises the Coast Guard on regulations and policies for the pilotage of vessels on the Great Lakes.

DATES: Application forms should reach us on or before December 15, 1999.

ADDRESSES: You may request an application form by writing to Commandant (G–MW), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–6164; or by facing 202–267–4700. Send your application form to the same address. This notice and the application form are available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Frank Flyntz, Executive Director of GLPAC, or Tom Lawler, Assistant to the Executive Director, telephone 202–267–8140 or 202–366–0091, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: In the April 16, 1999 issue of the Federal Register (64 FR 53845) the Coast Guard advised the public of its intent to establish the Great Lakes Pilotage Advisory Committee (GLPAC) and requested applications for membership on the committee. This notice reopens the period for submission of applications and corrects information regarding payment of travel expenses and per diem for members.

Reopening of Application Period

In the April 16 notice, the Coast Guard requested applications for membership on GLPAC, and the application period closed on June 15, 1999. We are reopening the application period until December 15, 1999. If you applied in response to the April 16 notice, you do not need to send another application form.

GLPAC is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Assistant Commandant for Marine Safety and Environmental Protection on matters relating to Great Lakes pilotage. It may advise, consult with, report to, and make recommendations to the Secretary of the Department of Transportation and may make these recommendations available to the Congress.

GLPAC will meet at the call of the Secretary at least once a year. It may also meet at the call of a majority of its members. Its subcommittee and working groups may meet to consider specific problem as required.

GLPAC will be composed of seven members as follows:

(a) Three members who are practicing Great Lakes Pilots and who reflect a regional balance.

(b) One member who represents the interests of vessel operators that contract for Great Lakes Pilotage services.

(c) One member who represents the interests of Great Lakes ports.

(d) One member who represents the interests of shippers whose cargoes are transported through Great Lakes ports; and

(e) One member who represents the interests of the general public and who is an independent expert on the Great Lakes maritime industry.

To be eligible for membership on GLPAC, applications must have at least 5 years of practical experience in maritime operations.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected, we may require you to complete a Confidential Financial Disclosure Report (OGE Form 450). We may not release the report or the information in its to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Correction

In our April 16 notice, the Coast Guard Advises that, ''All members serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.'' The notice should have read, ''All members serve without compensation from the Federal Government; however, travel reimbursement and per diem will be provided.''

Dated: September 30, 1999.

Jeffrey P. High,

Acting Assistant Commandant for Marine Safety & Environmental Protection.

[FR Doc. 99–26532 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–33]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions of exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 1, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Terry Stubblefield (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC., on October 5, 1999.

Michael E. Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29592.

Petitioner: Continental Airlines, Inc. and Continental Micronesia Airlines, Inc.

Section of the FAR Affected: 14 CFR 121.577(a).

Description of Relief Sought: To permit Continental to move an airplane on the surface before takeoff or after landing when beverages or other containers provided by Continental to passengers are retained at the passenger's seat.

[FR Doc. 99–26537 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air carrier operations issues.

DATES: The meeting will be held on October 27, 1999, at 10:30 a.m.

ADDRESSES: The meeting will be held in Room 1138, Federal Office Building 10B (formerly the ''NASA Building''), 7th and Maryland Streets, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Linda Williams, Office of Rulemaking, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–9685.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on October 27, 1999. The agenda for this meeting will include reports from the Airplane Performance Working Group and the All-Weather Operations Working Group. Attendance is open to the interested public but may be limited by the space available. The Members of the public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

If you are in need of assistance or require a reasonable accommodation for

this event, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on October 6, 1999.

Gary E. Davis,

Acting Assistant Executive Director, for Air Carrier Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–26538 Filed 10–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: International Trade Data System Project Office, Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden and in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3505(c)(2)(A)), the Department of the Treasury invites the general public and other Federal agencies to comment on continuation of this information collection. Specifically, the International Trade Data System (ITDS) Project Office within the Department of the Treasury is soliciting comments concerning the migration of the ITDS, using the lessons learned in the North American Trade Automation Prototype (NATAP), to an operational pilot.

DATES: Written comments should be received on or before December 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to The Department of the Treasury, International Trade Data Systems Project Office, Attn: William Nolle, 1300 Pennsylvania Ave. NW, Suite 4000, Washington, DC 20229, Telephone (202) 216–2760.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the instructions should be directed to The Department of the Treasury, International Trade Data Systems Project Office, Attn.: William Nolle, 1300 Pennsylvania Ave. NW, Suite 4000, Washington, DC 20229, Telephone (202) 216–2760. Information concerning the ITDS can also be obtained at the following Web Site: http//www.itds.treas.gov.

SUPPLEMENTARY INFORMATION:

Title: The International Trade Data System (formerly North American Trade Automation Prototype).

OMB Number: 1505–0162.

Abstract: After extensive consultation with the trade community in Canada, Mexico, and the United States, the NAFTA Information Exchange and Automation Working Group developed the North American Trade Automation Prototype (NATAP). Mandated by Article 512 of the NAFTA, NATAP was developed by the three countries to experiment with standardized data, advanced automation technologies, communications, and encryption designed to reduce costs and improve trade among the three NAFTA countries. The NATAP also served as a proof of concept for many attributes for the International Trade Data System (ITDS) as defined in the National Performance Review (NPR) under initiative ''IT 06'' and as noted in the ''Access America'' NPR report ''A09'' in which the Vice President designated NATAP to validate the International Trade Data System concept. In addition, NATAP incorporated encryption and privacy as noted in NPR initiative ''IT10.''

First, the ITDS, which will be totally electronic and incorporate elements of electronic commerce into government business, seeks OMB approval for the project to move forward from the prototype environment through a pilot collection phase, under OMB Control Number 1505–0162, to:

- ''Minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of international trade information.'' (35 U.S.C. 3501(1), (2), and (5));
- ''Ensure the integrity, quality, and utility of the Federal statistical system relating to international trade.'' (35 U.S.C. 3501(9));
- ''Ensure information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public.''(35 U.S.C. 3501(10);
- ''Maximize practical utility, and eliminate unnecessary duplication of existing collections.'' (Vice President Gore Implementation Memorandum, September 15, 1995);
- ''Minimize Federal paperwork burden on respondents and the cost of the collection to multiple agencies.'' (Vice President Gore Implementation Memorandum, September 15, 1995);
- ''Ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government as contained in the National Performance Review study IT–06.'' (Also cited in Access America, Reengineering Through Information Technology, the National Performance Review, 3 February 1997, Government Printing Office.); and
- Simplify the international trade process, especially to open international export trade to those small-to-medium size U.S. companies who are not trading internationally because they are intimidated by the complex and confusing trade process that currently exists.

Second, as each collection agreement is established between a Federal agency/branch and the ITDS, it is proposed that authority will be requested from OMB in accordance with the PRA as follows: 1) unless exempted, all agency collections of information are subject to OMB review and approval regardless of the collection media or collection technique (44 U.S.C. 3502(3); 5 CFR 1320.3(c)(1); 60 **Federal Register** 44978–79 (August 29, 1995): 2) if two or more agencies are obtaining the same information from the same respondents, the agencies should agree among themselves which agency will act as the collecting agent for all of them; and 3) OMB may designate one of the agencies to be the collecting agency (44 U.S.C. 3509 and 3510). In that regard, the ITDS is the result of multi-agency cooperation under the auspices of the National Performance Review and is designed as a system that works across all functional areas regarding international trade data collection, processing, use, and storage.

Eliminate Unnecessary Redundant Data Collection—The ITDS project represents a significant stride to develop a system for all of the Federal agencies that collect, process, use, disseminate information on international trade, and it eliminates unnecessary duplication of data collections from the public. For example, analyses conducted by the ITDS office and matched against OMB records indicate that for public data collection approved by the OMB for international trade information, *nearly 90%* of the data provided to Federal trade agencies are redundant.

If the pilot proves successful and is approved for implementation, as agencies are linked into the ITDS, the Federal government will be better able to meet the Paperwork Reduction Act objective to eliminate ''unnecessary duplication'' meaning that information similar to or corresponding to information that could serve the agency's purpose and need is already accessible to the agency.

Data standardization and elimination of hundreds of forms for data collections currently approved by the Office of Information and Regulatory Affairs in the Office of Management and Budget is central to information exchange in the ITDS and provides better government to

the American people and trade community. Data standardization within the ITDS will bring down barriers between information systems and reduce data collection costs.

Pilot Strategy—The strategy for the ITDS pilot is based on phased development and inter-agency involvement in identifying resource needs, identified to the inter-agency Board of Directors. The ITDS will test each information collection through a pilot program (44 U.S.C. 3506(c)(1)(A)(v); 5 CFR 1320.8(a)(6)). The ITDS office through Memoranda of Understandings will establish pilot collections.

Reduced Burden—A goal of the ITDS is to reduce unnecessary paperwork burden on the American business community. As the ITDS evolves from pilot to implementation, burden on U.S. businesses will be greatly reduced; both because of the removal of unnecessary duplication but also because the ITDS will to the extent possible utilize information that businesses use in the course of their activities.

Data Security—In the process of assuring protection for confidentiality, the ITDS and agencies will certify that steps will be taken to safeguard the integrity of and the confidentiality of information collected (5 CFR 1320.5(d)(2)(viii).

Current Actions: This is a request to permit the United States Treasury Department along with the Federal agencies participating in the ITDS to collect the data for these pilots for a one year period. Volunteers will be sought to participate in the ITDS pilot in order to provide traders with the opportunity to experiment with the advanced technologies and procedures with minimal expense. Through their evaluation of ITDS, they will have input into future trade processes, requirements and the design, development, and deployment of the ITDS.

Type of Review: Extension.

Affected Public: Importers, exporters, customs house brokers, and carriers who volunteer to participate in ITDS.

Estimated Number of Respondents: There are approximately 120 U.S. participants.

Estimated Time per Respondents: Each response will not exceed 3.5 minutes.

Estimated Total Annual Burden Hours: 0 (No additional burden hours required. Pilot removes the need for parallel processing as stated in original notice of November 25, 1996. Pilot replaces burden hours for Customs document CF 3461–ALT 1515–0069.)

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information and the prototype 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 this information to be collected; (d) ways to minimize the burden of information on respondents, including the use of automated collection techniques or other forms of information technology; (e) estimates of capital start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 4, 1999.

William L. Nolle,

International Trade Specialist, International Trade Data System Project Office.

[FR Doc. 99–26305 Filed 10–8–99; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service

Proposed Collection of Information: Resolution Authorizing Execution of Depositary, Financial Agency, and Collateral Agreement and Depositary, Financial Agency, and Collateral Agreement

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, 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. By this notice, the Financial Management Service solicits comments concerning the form ''Resolution Authorizing Execution of Depositary, Financial Agency, and Collateral Agreement'' and ''Depositary, Financial Agency, and Collateral Agreement.''

DATES: Written comments should be received on or before December 13, 1999.

ADDRESSES: Direct all written comments to Financial Management Service, Programs Branch, Room 144, 3700 East-West Highway, Hyattsville, 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to the Cash Management Policy and Planning Division, 401–14th Street, SW, Washington, DC 20227, (202) 874–6657.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Resolution Authorizing Execution of Depositary, Financial Agency, and Collateral Agreement and Depositary, Financial Agency, and Collateral Agreement.

OMB Number: 1510–0067.

Form Number: FMS–5902 and FMS–5903.

Abstract: These forms are used to give authority to financial institutions to become a depositary of the Federal Government. They also execute an agreement from the financial institutions they are authorized to pledge collateral to secure public funds with Federal Reserve Banks or their designees.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 350 (2 forms ea.).

Estimated Time Per Respondent: 30 minutes (15 min. ea. form).

Estimated Total Annual Burden Hours: 175.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected;

(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance and purchase of services to provide information.

Dated: October 4, 1999.

Bettsy Lane,

Assistant Commissioner.

[FR Doc. 99–26494 Filed 10–8–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service

Proposed Collection of Information: Electronic Transfer Account (ETA℠) Financial Agency Agreement

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, 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. By this notice, the Financial Management Service solicits comments concerning the form ''ETA℠ Financial Agency Agreement.''

DATES: Written comments should be received on or before December 13, 1999.

ADDRESSES: Direct all written comments to Financial Management Service, Programs Branch, Room 144, 3700 East-West Highway, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to the Director, Cash Management Policy and Planning Division, Financial Management Service, 401—14th Street, SW, Washington, DC 20227, (202) 874–6590.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: ETA℠ Financial Agency Agreement.

OMB Number: 1510–0073.

Form Number: FMS–111.

Abstract: This agreement is necessary to collect information on the number of ETAs℠ that are opened and closed on a monthly basis for purposes of payment of account set up fees to financial institutions providing ETAs℠ and for general program evaluation.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Financial institutions that offer the ETA℠.

Extimated Number of Respondents: 1500 (12 forms a yr.).

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 36,000.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of pubic record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: October 4, 1999.

Bettsy Lane,

Assistant Commissioner.

[FR Doc. 99–26495 Filed 10–8–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–248770–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–248770–96 [TD 8725], Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (§ 301.7430–2(c)).

DATES: Written comments should be received on or before December 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

OMB Number: 1545–1356.

Regulation Project Number: REG–248770–96.

Abstract: Under Internal Revenue Code section 7430 a prevailing party may recover the reasonable administrative or litigation costs incurred in an administrative or civil proceeding that relates to the determination, collection, or refund of any tax, interest, or penalty. Section 301.7430–2(c) of the regulation provides that the IRS will not award administrative costs under section 7430 unless the taxpayer files a written request in accordance with the requirements of the regulation.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and the Federal government.

Estimated Number of Respondents: 38.

Estimated Time Per Respondent: 2 hours, 16 minutes.

Estimated Total Annual Burden Hours: 86.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 5, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–26581 Filed 10–8–99; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Tuesday
October 12, 1999

Part II

Department of Health and Human Services

Administration for Children and Families

Request for Applications for the Office of Community Services' Fiscal Year 2000 Job Opportunities for Low-Income Individuals Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 2000–02]

Request for Applications for the Office of Community Services' Fiscal Year 2000 Job Opportunities for Low-Income Individuals Program

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' FY 2000 Job Opportunities for Low-Income Individuals (JOLI) Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), announces that, based on availability of funds, competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 505 of the Family Support Act of 1988, as amended.

Closing Date: To be considered for funding, applications must be *postmarked* on or before January 14, 2000. Detailed application submission instructions, including the addresses to which applications must be submitted, are found in Part V–B, Application Submission.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade SW., Washington, DC 20447. Contact: Nolan Lewis (202) 401–5282, Linda Bunn (202) 401–5324, Aleatha Slade (202) 401–5317. In addition, this Notice is accessible on the OCS WEBSITE for reading or downloading at: www.acf.dhhs.gov/programs/ocs/kits1.htm.

If this Program Announcement is not available at these sources, it may be obtained by telephoning or writing the office listed under **FOR FURTHER INFORMATION CONTACT** above.

The Catalog of Federal Domestic Assistance number for this program is ''93.593''. The title is ''Job Opportunities for Low-Income Individuals (JOLI) Program''.

Part I—Preamble

A. Legislative Authority

Section 505 of the Family Support Act of 1988, Public Law 100–485, as amended, authorizes the Secretary of HHS to enter into agreements with non-profit organizations (including community development corporations) for the purpose of conducting projects designed to create employment and business opportunities for certain low-income individuals.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193, reauthorized Section 505 of the Family Support Act of 1988. The Act also amended certain subsections of Section 505 of the Family Support Act of 1988 to be effective July 1, 1997.

B. Definitions of Terms

For purposes of this Program Announcement, the following definitions apply:

—*Budget period:* The interval of time into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes.

—*Community-level data:* Key information to be collected by each grantee that will allow for a national-level analysis of common features of JOLI projects. This consists of data on the population of the target area, including the percentage of TANF recipients and others on public assistance, and the percentage whose incomes fall below the poverty line; the unemployment rate; the number of new business starts and business closings; and a description of the major employers and average wage rates and employment opportunities with those employers.

—*Community development corporation:* A private, nonprofit entity, governed by a board of directors consisting of low-income residents of the community and business, civic leaders, that has as a principal purpose, planning, developing, or managing community economic development projects.

—*Hypothesis:* An assumption made in order to test its validity. It should assert a cause-and-effect relationship between a program intervention and its expected result. Both the intervention and result must be measured in order to confirm the hypothesis. For example, the following is a hypothesis: ''Eighty hours of classroom training in small business planning will be sufficient for participants to prepare a successful loan application.'' In this example, data would be obtained on the number of hours of training actually received by participants (the intervention), and the quality of loan applications (the result), to determine the validity of the hypothesis (that eighty hours of training is sufficient to produce the result).

—*Intervention:* Any planned activity within a project that is intended to produce changes in the target population and/or the environment and that can be formally evaluated. For example, assistance in the preparation of a business plan and loan package are planned interventions.

—*Job creation:* To bring about, by activities and services funded under this program, new jobs, that is, jobs that were not in existence before the start of the project. These activities can include self-employment/micro-enterprise training, the development of new business ventures or the expansion of existing businesses.

—*Non-profit organization:* Any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such code.

—*Non-traditional employment for women or minorities:* Employment in an industry or field where women or minorities currently make up less than twenty-five percent of the work force.

—*Outcome evaluation:* An assessment of project results as measured by collected data which define the net effects of the interventions applied in the project. An outcome evaluation will produce and interpret findings related to whether the interventions produced desirable changes and their potential for replicability. It should answer the question: Did this program work?

—*Private employers:* Third-party non-profit organizations or third-party for-profit businesses operating or proposing to operate in the same community as the applicant and which are proposed or potential employers of project participants.

—*Process evaluation:* The ongoing examination of the implementation of a program. It focuses on the effectiveness and efficiency of the program's activities and interventions (for example, methods of recruiting participants, quality of training activities, or usefulness of follow-up procedures). It should answer questions such as: Who is receiving what services? and are the services being delivered as planned? It is also known as formative evaluation because it gathers information that can be used as a management tool to improve the way a program operates while the program is in progress. It should also identify problems that occurred and how they were dealt with and recommend improved means of future implementation. It should answer the question: ''How

was the program carried out?'' In concert with the outcome evaluation, it should also help explain, ''Why did this program work/not work?'' and ''What worked and what did not?''

—*Program participant/beneficiary:* An individual eligible to receive Temporary Assistance for Needy Families under Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Part A of Title IV of the Social Security Act) and any other individual whose income level does not exceed 100 percent of the official poverty line as found in the most recent revision of the Poverty Income Guidelines published by the Department of Health and Human Services. (See Attachment A.)

—*Project period:* The total time a project is approved for support, including any extensions.

—*Self-sufficiency:* A condition where an individual or family, by reason of employment, does not need and is not eligible for public assistance.

—*Third party:* Any individual, organization, or business entity that is not the direct recipient of grant funds.

—*Third party agreement:* A written agreement entered into by the grantee and an organization, individual or business entity (including a wholly-owned subsidiary), by which the grantee makes an equity investment or a loan in support of grant purposes.

—*Third party in-kind contributions:* The value of non-cash contributions provided by non-federal third parties which may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefitting and specifically identifiable to the project or program.

C. Purpose

The purpose of this program is to demonstrate and evaluate ways of creating new employment and business opportunities for certain low-income individuals through the provision of technical and financial assistance to private employers in the community, self-employment/micro-enterprise programs, and/or new business development programs. A low-income individual eligible to participate in a project conducted under this program is any individual eligible to receive Temporary Assistance for Needy Families (TANF) under Part A of Title IV of the Social Security Act, as amended, or any other individual whose income level does not exceed 100 percent of the official poverty line. (See Attachment A.) Within these categories, emphasis should be on individuals who are receiving TANF or its equivalent under State auspices; those who are unemployed; those residing in public housing or receiving housing assistance; non-custodial parents, and those who are homeless.

Part II—Background Information and Program Requirements

A. Eligible Applicants

Organizations eligible to apply for funding under this program are any non-profit organizations (including community development corporations) that are exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code.

Applicants must provide documentation of their tax exempt status. The applicant can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax exemption certificate. Failure to provide evidence of section 501(c)(3) or (4) tax exempt status will result in rejection of the application.

Applicants that have applied to IRS for certification as a 501(c) (3) or (4) tax exempt organization must provide documentation that their application is currently pending IRS determination. However, applicant must have status at time of award.

B. Project and Budget Periods

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193, reauthorized and modified Section 505 of the Family Support Act of 1988, the JOLI authorizing legislation. Among the modifications effected was the deletion of sub-section (e), which had legislatively mandated project duration. Applicants are therefore free to apply for projects of from one to three years' duration, depending on the proposed work program and the applicant's assessment of the time required to achieve the proposed project goals. OCS has made the programmatic determination that the nature of job creation and career development projects which meet the funding criteria set forth in this Announcement is such that it is not feasible to divide funding into 12-month increments, and that completion of the entire project is in each case necessary to achieve the purposes of the JOLI program. Consequently, budget periods for grants under this Announcement may be up to three years.

Given the limited funds available for the JOLI program, applicants should make a realistic assessment of the time and funds needed to achieve the goals set forth in their proposal, and design a work program and budget accordingly. The grant request should be for an amount, up to a maximum of $500,000, needed to implement that part of the project plan supported by OCS funds, taking into consideration other cash and in-kind resources mobilized by the applicant in support of the proposed project. (See Paragraph D, below, Mobilization of Resources, and Part IV, Element VI, Budget Appropriateness and Reasonableness.)

C. Availability of Funds and Grant Amounts

All grant awards are subject to the availability of appropriated funds. It is anticipated that approximately $5,500,000 will be available in FY 2000 for JOLI. OCS estimates that approximately $5,000,000 will be available for new grants and the remaining $500,000 will be set aside for the national JOLI contract. The 1996 amendments to the JOLI authorizing legislation also deleted the limitation on the number of grants to be made in any one fiscal year. Thus, the Office of Community Services expects to award up to 10 new grants by September 30, 2000, based on the amounts requested and contingent on the availability of funds. Grants of up to $500,000 in OCS funds for project periods and budget periods of up to three years will be awarded to selected organizations under this program in FY 2000.

D. Mobilization of Resources

OCS will give favorable consideration in the review process to applicants who mobilize cash and/or third-party in-kind contributions for direct use in the project. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process under the Public-Private Partnerships program element. Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individual(s) from which resources will be received. Even though there is no matching requirement for the JOLI Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application. (See Part IV, Element V, and Part VI, B., Instructions for Completing the SF–424A, Section C, Non-Federal Resources)

E. Program Participants/beneficiaries

Projects proposed for funding under this Announcement must result in direct benefits to low-income people or persons at or below the poverty line, as defined in the most recently published Poverty Income Guidelines and individuals eligible to receive TANF under Part A of Title IV of the Social Security Act, as amended.

Attachment A to this Announcement is an excerpt from the guidelines currently in effect. Annual revisions of these guidelines are normally published in the **Federal Register** in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for this program.

F. Prohibition and Restrictions on the Use of Funds

The use of funds for new construction or the purchase of real property is prohibited. Costs incurred for the rearrangement and alteration of facilities required specifically for the grant program are allowable when specifically approved in advance by ACF in writing.

If the applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidelines.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act will result in the application being ineligible for funding consideration.

G. Multiple Submittals

Due to the limited amount of funds available under this program, only a single proposal from any one eligible applicant will be funded by OCS from FY 2000 JOLI funds pursuant to this Announcement.

H. Re-funding

OCS will not re-fund a previously funded grantee to carry out the same work plan in the same target area.

I. Sub-contracting or Delegating Projects

An applicant will not be funded where the proposal indicates that the applicant if funded will serve as a straw-party, that is, act as a mere conduit of funds to a third party without performing a substantive role itself. This prohibition does not bar sub-contracting or sub-awarding for specific services or activities needed to conduct the project.

J. Maintenance of Effort

The application must include an assurance that activities funded under this Program Announcement are in addition to, and not in substitution for, activities previously carried out without Federal assistance. (See Part VII–A. 9 and Attachment M.)

Part III—Application Requirements and Priority Areas

A. Program Focus

The Congressional Conference Report on the 1992 appropriations for the Department of Labor, Health and Human Services, and Education and related agencies directed the ACF to require economic development strategies as part of the application process to ensure that highly qualified organizations participate in the demonstration [H.R. Conf. Rep. No. 282, 102d Cong., 1st Sess. 39 (1991)].

Priority will be given to applications proposing to serve those areas containing the highest percentage of individuals receiving Temporary Assistance to Needy Families (TANF) under Title IV–A of the Social Security Act, as amended.

While projected employment in future years may be included in the application, it is essential that the focus of the project concentrate on the creation of new full-time, permanent jobs and/or new business development opportunities for TANF recipients and other low-income individuals during the duration of the grant project period. OCS is particularly interested in receiving innovative proposals that grow out of the experience and creativity of applicants and the needs of their clientele and communities.

Applicants should include strategies which seek to integrate projects financed and jobs created under this program into a larger effort of broad community revitalization which will promote job and business opportunities for eligible program participants and impact the overall economic environment.

OCS will only fund projects that create new employment and/or business opportunities for eligible program participants. That is, new full-time permanent jobs through the expansion of a pre-identified business or new business development, or by providing opportunities for self-employment. In addition, projects should enhance the participants' capacities, abilities and skills and thus contribute to their progress toward self-sufficiency.

With national welfare reform a reality, and many States already implementing ''welfare-to-work'' programs, the need for well-paying jobs with career potential for TANF recipients becomes ever more pressing. In this context, the role of JOLI as a vehicle for exploring new and promising areas of employment opportunity for the poor is more important than ever.

Within the JOLI Program framework of job creation through new or expanding businesses or self-employment, OCS would welcome proposals offering business or career opportunities to eligible participants in a variety of fields. For instance, these might include day care and transportation, which are not only opportunities for employment, but when not available can be serious barriers to employment for TANF recipients; environmental justice initiatives involving activities such as toxic waste clean-up, water quality management, or Brownfields remediation; health-related jobs such as home health aides or medical support services; and non-traditional jobs for women and minorities.

B. Creation of Jobs and Employment Opportunities

The requirement for creation of new, full-time permanent employment opportunities (jobs) applies to all applications. OCS has determined that the creation of non-traditional job opportunities for women or minorities in industries or activities where they currently make up less than twenty-five percent of the work force meets the requirements of the JOLI legislation for the creation of new employment opportunities. OCS continues to solicit other JOLI applications to propose the creation of jobs through the expansion of existing businesses, the development of new businesses, or the creation of employment opportunities through self-employment/ microenterprise development.

Proposed projects must show that the jobs and/or business/self employment opportunities to be created under this program will contribute to achieving self-sufficiency among the target population. The employment opportunities should provide hourly wages that exceed the minimum wage and also provide benefits such as health insurance, child care, and career development opportunities.

C. Cooperative Partnership Agreement With the Designated Agency Responsible for the Temporary Assistance for Needy Families (TANF) Program

A formal, cooperative relationship between the applicant and the designated State agency responsible for administering the Temporary Assistance for Needy Families (TANF) program (as provided for under Title IV–A of the Social Security Act, as amended,) in the area served by the project is a requirement for funding. The application must include a signed, written agreement between the applicant and the designated State agency responsible for administering the TANF program, or a letter of commitment to such an agreement within 6 months of a grant award (contingent only on receipt of OCS funds). The agreement must describe the cooperative relationship, including specific activities and/or actions each of these entities propose to carry out over the course of the grant period in support of the project.

The agreement, at a minimum, must cover the specific services and activities that will be provided to the target population. (See Attachment I for a list of the State IV–A agencies administering TANF.)

D. Third-Party Project Evaluation

Proposals must include provision for an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant and their efficacy in creating new jobs and business opportunities. There must be a well-defined process evaluation, and an outcome evaluation whose design will permit tracking of project participants throughout the proposed project period. The evaluation must be conducted by an independent evaluator, i.e., a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. It is important that each successful applicant have a third-party evaluator selected, and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, in order to assure that data necessary for the evaluation will be collected and available.

E. Economic Development Strategy

As noted in A. above, the Congress, in the Conference Report on the FY 1992 appropriation, directed ACF to require economic development strategies as part of the application process for JOLI to ensure that highly qualified organizations participate in the demonstration. Accordingly, applicants must include in their proposal an explanation of how the proposed project is integrated with and supports a larger economic development strategy within the target community. Where appropriate, applicants should document how they were involved in the preparation and planned implementation of a comprehensive community-based strategic plan, such as that required for applying for Empowerment Zones/Enterprise Community (EZ/EC) status, to achieve both economic and human development in an integrated manner, and how the proposed project supports the goals of that plan. (See Part IV, Sub-Element III (b).)

F. Training and Support for Micro-Business Development

In the case of proposals for creating self-employment micro-business opportunities for eligible participants, the applicant must detail how it will provide training and support services to potential entrepreneurs. The assistance to be provided to potential entrepreneurs must include, at a minimum: (1) Technical assistance in basic business planning and management concepts; (2) assistance in preparing a business plan and loan application; and (3) access to business loans.

G. Support for Noncustodial Parents

The Office of Community Services and the Office of Child Support Enforcement, both in the Administration for Children and Families, signed a Memorandum of Understanding (MOU) to foster and enhance partnerships between OCS grantees and local Child Support Enforcement (CSE) agencies. (See Attachment N for the list of CSE State Offices that can identify local CSE agencies). In the words of the MOU:

''The purpose of these partnerships will be to develop and implement innovative strategies in States and local communities to increase the capability of low-income parents and families to fulfill their parental responsibilities. Too many low-income parents are without jobs or resources needed to support their children. A particular focus of these partnerships will be to assist low-income, non-custodial parents of children receiving Temporary Assistance for Needy Families to achieve a degree of self-sufficiency that will enable them to provide support that will free their families of the need for such assistance.''

Accordingly, a rating factor and a review criterion have been included in this Program Announcement which will award two points to applicants who have entered into partnership agreements with their local CSE agency to provide for referrals to their project in accordance with provisions of the OCS-OCSE MOU. (See Part IV, Sub-Element III (c))

H. Technical Assistance to Employers

Technical assistance should be specifically addressed to the needs of the private employer in creating new jobs to be filled by eligible individuals and/or to the individuals themselves in areas such as job-readiness, literacy and other basic skills training, job preparation, self-esteem building, etc. Financial assistance may be provided to the private employer as well as to the individual.

If the technical and/or financial assistance is to be provided to pre-identified businesses that will be expanded or franchised, written commitments from the businesses to create the planned jobs must be included with the application.

I. Applicant Experience and Cost-Per-Job

In the review process, favorable consideration will be given to applicants with a demonstrated record of achievement in promoting job and enterprise opportunities for low-income people. Favorable consideration also will be given to those applicants who show the lowest cost-per-job created for low-income individuals. For this program, OCS views $15,000 in OCS funds as the maximum amount for the creation of a job and, unless there are extenuating circumstances, will not fund projects where the cost-per-job in OCS funds exceeds this amount. Only those jobs created and filled by low-income people will be counted in the cost-per-job formula. (See Part IV, Sub-Element III (d))

J. Loan Funds

The creation of a revolving loan fund with funds received under this program is an allowable activity. However, OCS encourages the use of funds from other

sources for this purpose. Loans made to eligible beneficiaries for business development activities must be at or below market rate.

Note: Interest accrued on revolving loan funds may be used to continue or expand the activities of the approved project.

K. Business Plans

Where applicant is proposing the development and start-up of a new business or the expansion of an existing business, a Business Plan that follows the outline in Attachment L to this Announcement must be submitted as an appendix to the proposal.

L. Dissemination of Project Results

Applications should include a plan for disseminating the results of the project after expiration of the grant period. Applicants may budget up to $2,000 for dissemination purposes. Final Project Reports should include a description of dissemination activities with copies of any materials produced.

M. General Projects 1.0 and Community Development Corporations Set-Aside 2.0

All grant awards are subject to the availability of appropriated funds. The Office of Community Services expects to award approximately $5 million by no later than September 30, 2000 for new grants under this announcement: approximately $4 million for General Projects 1.0, and up to $1 million for CDC Set-Aside Projects 2.0. (For definition of Community Development Corporation, See Part I, Section B)

The same purposes, requirements and prohibitions are applicable to proposals submitted under both General Projects 1.0 and Community Development Corporations Set-Aside 2.0. Applications for the set-aside funds that are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants.

N. Third Party Agreements

Any applicant submitting a proposal for funding who proposes to use some or all of the requested OCS funds to enter into a third party agreement in order to make an equity investment (such as the purchase of stock) or a loan to an organization, or business entity (including a wholly-owned subsidiary), must include in the application, along with the business plan, a copy of the signed third party agreement for approval by OCS.

A third party agreement covering an equity investment must contain, at a minimum, the following:

1. The type of equity transaction (e.g. stock purchase);

2. Purpose(s) for which the equity investment is being made;

3. Cost per share;

4. Number of shares being purchased;

5. Percentage of ownership of the business; and

6. Number of seats on the board, if applicable.

A third party agreement covering a loan transaction must contain, at a minimum, the following information:

1. Purpose(s) for which the loan is being made;

2. Rates of interest and other fees;

3. Terms of loan;

4. Repayment schedules;

5. Collateral security; and

6. Default and collection procedures.

All third party agreements must include written commitments as follows:

From the third party (as appropriate):

1. A minimum of 75% of the jobs to be created as a result of the injection of grant funds will be filled by low-income individuals;

2. The grantee will have the right to screen applicants for jobs to be filled by low-income individuals and to verify their eligibility;

3. If the grantee's equity investment equals 25% or more of the business's assets, the grantee will have representation on the board of directors;

4. Reports will be made to the grantee regarding the use of grant funds no less than on a quarterly basis;

5. A procedure will be developed to assure that there are no duplicate counts of jobs created; and

6. Detailed information will be provided on how the grant funds will be used by the third party by submitting a Source and Use of Funds Statement. In addition, the agreement must provide details on how the grantee will provide support and technical assistance to the third party in areas of recruitment and retention of low-income individuals.

From the grantee:

Detailed information on how the grantee will provide support and technical assistance to the third party in areas of recruitment and retention of low-income individuals.

All third party agreements should be accompanied by:

1. A signed statement from a Certified or Licensed Public Accountant as to the sufficiency of the third party's financial management system in accordance with 45 CFR part 74, to protect adequately any federal funds awarded under the application;

2. Financial statements for the third party organization for the prior three years (If not available because the organization is a newly-formed entity, include a statement to this effect.); and

3. The third party agreement will specify how the grantee will provide oversight of the third party for the life of the agreement. Also, the agreement will specify that the third party will maintain documentation related to the expenditure of grant funds loaned to or invested in the third party and grant objectives as specified in the agreement and will provide the grantee and HHS access to that documentation.

If a signed third party agreement is not available when the application is submitted, the applicant must submit as part of the narrative as much of the above-mentioned information as possible in order to enable reviewers to evaluate the proposal. It should be noted that that portion of a grant which will be used to fund a third party agreement will not be released until the agreement has been approved by OCS.

Part IV—Application Elements and Review Criteria

Applications that pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the Announcement.

The in-depth assessment and review process will use the following criteria coupled with the specific requirements described in Part III. Scoring will be based on a total of 100 points.

The ultimate goals of the project to be funded under the JOLI Program are: (1) To achieve, through project activities and interventions, the creation of employment opportunities for TANF recipients and other low-income individuals which can lead to economic self-sufficiency of members of the communities served; (2) to evaluate the effectiveness of these interventions and of the project design through which they were implemented; and (3) thus to make possible the replication of successful programs. OCS intends to make the awards of all the above grants on the basis of brief, concise applications. The elements and format of these applications, along with the review criteria that will be used to evaluate them, will be outlined in this Part.

In order to simplify the application preparation and review process, OCS seeks to keep grant proposals cogent and brief. Applications with project narratives (excluding appendices) of more than 30 letter-sized pages of 12 characters per inch (c.p.i.) type or

equivalent on a single side will not be reviewed for funding. Applicants should prepare and assemble their project description using the following outline of required project elements. They should, furthermore, build their project concept, plans, and application description upon the guidelines set forth for each of the project elements.

For each of the Project Elements or Sub-Elements below, there is, at the end of the discussion, a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that the overall Project Narrative cannot be longer than 30 pages.

The competitive review of proposals will be based on the degree to which applicants incorporate each of the Elements and Sub-Elements below into their proposals, so as to:

1. Describe convincingly a project that will develop new employment or business opportunities for TANF recipients and other low income individuals that can lead to a transition from dependency to economic self-sufficiency;

2. Propose a realistic budget and time frame for the project that will support the successful implementation of the work plan to achieve the project's goals in a timely and cost effective manner; and

3. Provide for the testing and evaluation of the project design, implementation, and outcomes so as to make possible replication of a successful program.

Element I—Organizational Experience in Program Area and Staff Skills, Resources and Responsibilities

Sub-Element I (a)—Agency's Experience and Commitment in Program Area

(Weight of 0–10 points in proposal review)

Applicants should cite their organization's capability and relevant experience in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project. They should also cite the organization's experience in collaborative programming and operations which involve evaluations and data collection. Applicants should identify agency executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation.

The application should include documentation that briefly summarizes two similar projects undertaken by the applicant agency and the extent to which the stated and achieved performance targets, including permanent benefits to low-income populations, have been achieved. The application should note and justify the priority that this project will have within the agency, including the facilities and resources that it has available to carry it out.

It is suggested that applicants use no more than 2 pages for this Sub-Element.

Note: The maximum number of points will be given only to those organizations with a demonstrated record of achievement in promoting job creation and enterprise opportunities for low-income people.

Sub-Element I (b)—Staff Skills, Resources and Responsibilities

(Weight of 0–10 points in proposal review)

The application must identify the two or three individuals who will have the key responsibility for managing the project, coordinating services and activities for participants and partners, and for achieving performance targets. The focus should be on the qualifications, experience, capacity and commitment to the program of the executive officials of the organization and the key staff persons who will administer and implement the project. The person identified as project director should have supervisory experience, experience in finance and business, and experience with the target population. Because this is a demonstration project within an already-established agency, OCS expects that the key staff person(s) would be identified, if not hired.

The application must also include a resume of the third party evaluator, if identified or hired; or the minimum qualifications and position description for the third-party evaluator, who must be a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. (See Element IV, Project Evaluation, below, for fuller discussion of evaluator qualifications.)

Actual resumes of key staff and position descriptions should be included in an Appendix to the proposal.

It is suggested that applicants use no more than 3 pages for this Sub-Element.

Element II: Project Theory, Design, and Plan

OCS seeks to learn from the application why and how the project as proposed is expected to lead to the creation of new employment opportunities for low-income individuals, which can lead to significant improvements in individual and family self-sufficiency.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework. In the following paragraphs, a framework is described that suggests a way to present a project so as to show the logic of the cause-effect relations between project activities and project results. Applicants don't have to use the exact language described; but it is important to present the project in a way that makes clear the cause-effect relationship between what the project plans to do and the results it expects to achieve.

Sub-Element II (a)—Description of Target Population, Analysis of Need, and Project Assumptions

(Weight of 0–10 points in application review)

The project design or plan should begin with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built. These assumptions include: The needs of the population to be served; the current services available to that population, and where and how they fail to meet their needs; why the proposed services or interventions are appropriate and will meet those needs; and the impact the proposed interventions will have on the project participants.

In other words, the underlying assumptions of the program are the applicant's analysis of the needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those needs and problems to achieve the desired result. Thus a strong application is based upon a clear description of the needs and problems to be addressed and a persuasive understanding of the causes of those problems.

In this sub-element of the proposal, the applicant must precisely identify the target population to be served. The geographic area to be impacted should then be briefly described, citing the percentage of residents who are low-income individuals and TANF recipients, as well as the unemployment rate and other data that are relevant to the project design.

The application should include an analysis of the identified personal barriers to employment, job retention and greater self-sufficiency faced by the population to be targeted by the project. (These might include such problems as illiteracy, substance abuse, family violence, lack of skills training, health or medical problems, need for childcare, lack of suitable clothing or equipment, or poor self-image.) The application

should also include an analysis of the identified community systemic barriers which the project will seek to overcome. These might include lack of jobs (high unemployment rate); lack of public transportation; lack of markets; unavailability of financing, insurance or bonding; inadequate social service (employment service, child care, job training); high incidence of crime; inadequate health care; or environmental hazards (such as toxic dumpsites or leaking underground tanks). Applicants should be sure not to overlook the personal and family services and support that might be needed by project participants *after* they are on the job which will enhance job retention and advancement. If the jobs to be created by the proposed project are themselves designed to fill one or more of the needs, or remove one or more of the barriers so identified, this fact should be highlighted in the discussion, *e.g.*, jobs in childcare, health care, or transportation.

It is suggested that applicants use no more than 4 pages for this Sub-Element.

Sub-Element II (b)—Project Strategy and Design: Interventions, Outcomes, and Goals

(Weight of 0–10 points in proposal review)

The work plan must describe the proposed project activities, or interventions, and explain how they are expected to result in outcomes which will meet the needs of the program participants and assist them to overcome the identified personal and systemic barriers to employment, job retention, and self-sufficiency. In other words, what will the project staff do with the resources provided to the project and how will what they do (interventions) assist in creating and sustaining employment and business opportunities for program participants in the face of the needs and problems that have been identified.

The underlying assumptions concerning client needs and the theory of how they can be effectively addressed, which are discussed above, lead in the project design to the conduct of a variety of project activities or interventions, each of which is assumed to result in immediate changes, or outcomes.

The immediate changes lead to intermediate outcomes; and the intermediate outcomes lead to the attainment of the final project goals.

The applicant should describe the major activities, or interventions, which are to be carried out to address the needs and problems identified in Sub-Element II (a); and should discuss the immediate changes, or outcomes, which are expected to result. These are the results expected from each service or intervention immediately after it is provided. For example, a job readiness training program might be expected to result in clients having increased knowledge of how to apply for a job, improved grooming for job interviews, and improved job interview skills; or business training and training in bookkeeping and accounting might be expected to result in project participants making an informed decision about whether they were suited for entrepreneurship.

At the next level are the intermediate outcomes, which result from these immediate changes. Often an intermediate project outcome is the result of several immediate changes resulting from a number of related interventions such as training and counseling. Intermediate outcomes should be expressed in measurable changes in knowledge, attitudes, behavior, or status/condition. In the above examples, the immediate changes achieved by the job readiness program, coupled with technical assistance to an employer in the expansion of a business, could be expected to lead to intermediate outcomes of creation of new job openings and the participant applying for a job with the company. The acquisition of business skills, coupled with the establishment of a loan fund, could be expected to result in the actual decision to go into a particular business venture or seek the alternative track of pursuing job readiness and training.

Finally, the application should describe how the achievement of these intermediate outcomes will be expected to lead to the attainment of the project goals: employment in newly created jobs, new careers in non-traditional jobs, successful business ventures, or employment in an expanded business, depending on the project design. Applicants must remember that if the major focus of the project is to be the development and start-up of a new business or the expansion of an existing business, then a Business Plan which follows the outline in Attachment L to this announcement must be submitted as an Appendix to the Proposal. (See Part III K)

Applicants do not have to use the exact terminology described above, but it is important to describe the project in a way that makes clear the expected cause-and-effect relationship between what the project plans to do—the activities or interventions, the changes that are expected to result, and how those changes will lead to attainment of the project goals of new employment opportunities and greater self-sufficiency. The competitive review of this Sub-Element will be based on the extent to which the application makes a convincing case that the activities to be undertaken will lead to the projected results.

It is suggested that applicants use no more than 4 pages for this Sub-Element.

Sub-Element II (c)—Work Plan

(Weight of 0–10 points in proposal review)

Once the project strategy and design framework is established, the applicant should present the highlights of a work plan for the project. The plan should explicitly tie into the project design framework and should be feasible, i.e., capable of being accomplished with the resources, staff, and partners available. The plan should briefly describe the key project tasks and show the timelines and major milestones for their implementation. Critical issues or potential problems that might affect the achievement of project objectives should be explicitly addressed, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems. The plan should be presented in such a way that it can be correlated with the budget narrative included earlier in the application.

Applicants may be able to use a simple Gantt or time line chart to convey the work plan in minimal space.

The application contains a full and accurate description of the proposed use of the requested financial assistance.

If the applicant proposes to make an equity investment or a loan to an individual, organization, or business entity (including a wholly-owned subsidiary), the applicant must include: A signed third party agreement; a signed statement by a Certified or Licensed Public Accountant as to the sufficiency of the third party's financial management system; and financial statements for the third party's prior three years of operation. (If newly formed and unable to provide the information regarding the prior three years of operation, a statement to that effect should be included.) If the applicant states that an agreement is not currently in place, the application must contain in the narrative as much information required for third party agreement as is available.

Also, if the project proposes the development of a new or expanding business, service, physical or commercial activity, the application must address applicable elements of a

business plan. Guidelines for a Business Plan are included in Attachment L.

Special attention should be given to assure that the financial plan element, which indicates the project's potential and timetable for financial self-sufficiency, is included. It must include for the applicant and the third party, if appropriate, the following exhibits for the first three years (on a quarterly basis) of the business' operations: Profit and Loss Forecasts, Cash Flow Projections, and Proforma Balance Sheets. Based on these documents, the application must also contain an analysis of the financial feasibility of the project. Also, a Source and use of Funds statement for all project funding must be included.

It is suggested that applicants use no more than 3 pages for this Sub-Element.

Element III—Significant and Beneficial Impact

Sub-Element III (a)—Quality of Jobs/ Business Opportunities

(Weight of 0–10 points in proposal review)

The proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community and lead welfare recipients from welfare dependency toward economic self-sufficiency. Results are expected to be quantifiable in terms of the creation of permanent, full-time jobs; the development of business opportunities; the expansion of existing businesses; or the creation of non-traditional employment opportunities. In developing business opportunities and self employment for TANF recipients and low-income individuals, the applicant proposes, at a minimum, to provide basic business planning and management concepts, and assistance in preparing a business plan and loan package.

The application should document that:

The business opportunities to be developed for eligible participants will contribute significantly to their progress toward self-sufficiency; and/or jobs to be created for eligible participants will contribute significantly to their progress toward self-sufficiency. For example, they should provide salaries that exceed the minimum wage, plus benefits such as health insurance, child care and career development opportunities.

It is suggested that applicants use no more than 2 pages for this Sub-Element.

Sub-Element III (b)—Community Empowerment Consideration

(Weight of 0–3 points in proposal review)

Special consideration will be given to applicants that are located in areas that are characterized by conditions of extreme poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%, designation as an Empowerment Zone or Enterprise Community, high levels of violence, gang activity or drug use; and who document that in response to these conditions they have been involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner; and how the proposed project will support the goals of that plan.

It is suggested that applicants use no more than 2 pages for this Sub-Element.

Sub-Element III(c)—Support for Noncustodial Parents

(Weight of 0–2 points in proposal review)

Applicants that have entered into partnership agreements with local Child Support Enforcement Agencies to develop and implement innovative strategies to increase the capability of low-income parents and families to fulfill their parental responsibilities, and specifically, to this end, to provide for referrals to the funded projects of identified income eligible families and non-custodial parents economically unable to provide child support, will also receive special consideration.

To receive the full credit of two points, applicants should include as an appendix to the application, a signed letter of agreement with the local CSE Agency for referral of eligible non-custodial parents to the proposed project.

It is suggested that applicants use no more than 1 page for this Sub-Element.

Sub-Element III (d)—Cost-Per-Job

(Weight of 0–5 points in proposal review)

The applicant should document that during the project period the proposed project will create new, permanent jobs through business opportunities or non-traditional employment opportunities for low-income residents at a cost-per-job below $15,000 in OCS funds. The cost per job should be calculated by dividing the total amount of grant funds requested (e.g. $420,000) by the number of jobs to be created (e.g., 60) which would equal the cost-per-job ($7,000)). If any other calculations are used, include the methodology and rationale in this section. In making calculations of cost-per-job, only jobs filled by low-income project participants may be counted. (See Part III, Section I)

Note: Except in those instances where independent reviewers identify extenuating circumstances related to business development activities, or high wage levels and living costs such as in Hawaii or Alaska, the maximum number of points will be given only to those applicants proposing cost-per-job created estimates of $5,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points.

It is suggested that applicants use no more than 1 page for this Sub-Element.

Element IV—Project Evaluation

(Weight of 0–15 points in the proposal review)

Sound evaluations are essential to the JOLI Program. OCS requires applicants to include in their applications a well thought through outline of an evaluation plan for their project. The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented; whether the project activities, or interventions, achieved the expected immediate outcomes, and why or why not (the process evaluation); and whether and to what extent the project achieved its stated goals, and why or why not (the outcome evaluation). Together, the process and outcome evaluations should answer the question: ''What did this program accomplish and why did it work/not work?''

Applicants are *not* being asked to submit a complete and final evaluation plan as part of their proposal; but they must include:

1. A well thought through outline of an evaluation plan that identifies the principal cause-and-effect relationships to be tested, and that demonstrates the applicant's understanding of the role and purpose of both process and outcome evaluations. (See previous paragraph);

2. A reporting format based on the grantee's documentation of its activities (interventions) and their effectiveness, to be included in the grantee's semi-annual program progress report, which will provide OCS with insights and lessons learned, as they become evident, concerning the various aspects of the work plan, such as recruitment, training, support, public-private partnerships, and coordination with other community resources, as they may be relevant to the proposed project;

3. The identity and qualifications of the proposed third-party evaluator, or if

not selected, the qualifications which will be sought in choosing an evaluator, which must include successful experience in evaluating social service delivery programs, and the planning and/or evaluation of programs designed to foster self-sufficiency in low income populations; and

4. A commitment to the selection of a third-party evaluator approved by OCS, and to completion of a final evaluation design and plan, in collaboration with the approved evaluator and the OCS Evaluation Technical Assistance Contractor during the six-month start-up period of the project, if funded.

Applicants should ensure, above all, that the evaluation outline presented is consistent with their project design. A clear project framework of the type recommended earlier identifies the key project assumptions about the target populations and their needs, as well as the hypotheses, or expected cause-effect relationships to be tested in the project; and the proposed project activities, or interventions, that will address those needs in ways that will lead to the achievement of the project goals of self-sufficiency. It also identifies in advance the most important process and outcome measures that will be used to identify performance success and expected changes in individual participants, the grantee organization, and the community.

Finally, as noted above, the outline should provide for prompt reporting, concurrently with the semi-annual program progress reports, of lessons learned during the course of the project, so that they may be shared without waiting for the final evaluation report.

For all these reasons, it is important that each successful applicant have a third-party evaluator selected and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, and in order to assure that data necessary for the evaluation will be collected and available. Plans for selecting an evaluator should be included in the application narrative. A third-party evaluator must have knowledge about and have experience in conducting process and outcome evaluations in the job creation field, and have a thorough understanding of the range and complexity of the problems faced by the target population.

The competitive procurement regulations (45 CFR part 74, §§ 74.40–74.48, esp. 74.43) apply to service contracts such as those for evaluators.

It is suggested that applicants use no more than 3 pages for this Element, plus the resume or position description for the evaluator, which should be in an appendix.

Element V—Public/Private Partnerships

(Weight of 0–10 points in the proposal review)

The proposal should briefly describe any public/private partnerships, which will contribute to the implementation of the project. Where partners' contributions to the project are a vital part of the project design and work program, the narrative should describe undertakings of the partners, and a partnership agreement specifying the roles of the partners and making a clear commitment to the fulfilling of the partnership role, must be included in an appendix to the proposal. The firm commitment of mobilized resources must be documented and submitted with the application in order to be given credit under this element. The application should meet the following criteria:

(a) Where other resources are mobilized, the application must provide documentation that public and/or private sources of cash and/or third-party-in-kind contributions will be available, in the form of letters of commitment from the organization(s)/individual(s) from which resources will be received. Applications that can document dollar for dollar contributions equal to the OCS funds and demonstrate that the partnership agreement clearly relates to the objectives of the proposed project will receive the maximum number of points for this criterion. Lesser contributions will be given consideration based upon the value documented.

Note: Even though there is no matching requirement for the JOLI Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application. (See Part II, D—Mobilization of Resources)

(b) Partners involved in the proposed project should be responsible for substantive project activities and services. Applicants should note that partnership relationships are not created via service delivery contracts.

It is suggested that applicants use no more than 4 pages for this Element.

Element VI—Budget Appropriateness and Reasonableness

(Weight of 0–5 points in proposal review)

Applicants are required to submit Federal budget forms with their proposals to provide basic applicant and project information (SF 424) and information about how Federal and other project funds will be used (424A). (See Part VI.) Immediately following the completed Federal budget forms, (Attachments B and C), applicants must submit a Budget Narrative, or explanatory budget information which includes a detailed budget breakdown for each of the budget categories in the SF–424A. This Budget Narrative is not considered a part of the Project Narrative, and does not count as part of the thirty pages; but rather should be included in the application following the budget forms.

The duration of the proposed project and the funds requested in the budget must be commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The budget narrative should briefly explain how grant funds will be expended and show the appropriateness of the Federal funds and any mobilized resources to accomplish project purposes within the proposed timeframe. The estimated cost to the government of the project should be reasonable in relation to the project's duration and to the anticipated results, and include reasonable administrative costs, if an indirect cost rate has not been negotiated with a cognizant Federal agency.

Applicants are encouraged to use job titles and not specific names in developing the applicant budget. However, the specific salary rates or amounts for staff positions identified must be included in the application budget.

Resources in addition to OCS grant funds are encouraged both to augment project resources and strengthen the basis for continuing partnerships to benefit the target community. The amounts of such resources, their appropriateness to the project design, and the likelihood that they will continue beyond the project timeframe will be taken into account in judging the application. As noted in Element V, above, even though there is no matching requirement for the JOLI program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application.

Applicants should include funds in the project budget for travel by Project Directors and Chief Evaluators to attend two national evaluation workshops in Washington, DC (See Part VIII, Evaluation Workshops.) The score for this element will be based on the budget form (SF–424A) and the associated detailed budget narrative.

Part V—Application Procedures

A. Availability of Forms

Attachments B through N contain all of the standard forms necessary for the application for awards under this OCS program. These attachments and Parts V and VI of this Announcement contain all the instructions required for submittal of applications.

Additional copies may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT:** at the beginning of this announcement. In addition, this Announcement is accessible on the Internet through the OCS website for reading or downloading at the following address: www.acf.dhhs.gov/programs/ocs/kits1.htm

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the Drug-Free workplace, Debarment regulations and the Certification Regarding Environmental Tobacco Smoke, set forth in Attachments E, F and J.

Part IV contains instructions for the substance and development of the project narrative. Part VII, Section A describes the contents and format of the application as a whole.

B. Application Submission

Mailing Address: JOLI Applications should be mailed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor West, Aerospace Center, 370 L'Enfant Promenade, SW, Washington, DC 20447; Attention: Application for JOLI Program.

Number of Copies Required: One signed original application and four copies should be submitted at the time of initial submission. (OMB–0970–0062, expiration date October 31, 2001)

Submission Instructions: Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review.

Applications mailed must bear a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications hand carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, and at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note: Attention: Application for JOLI Program. (Applicants are again cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: ACF may extend application deadlines when circumstances such as acts of God (flood, hurricanes, etc.) occur, or when there are widespread disruptions of the mail service. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

C. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including Program Announcements. 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. This Program Announcement does not contain information collection requirements beyond those approved for ACF grant announcements/applications under OMB Control Number OMB–0970–0062, expiration date October 31, 2001.

D. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State/territory participation in the intergovernmental review process does not signify applicant eligibility for financial assistance under a program. A potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its single point of contact (SPOC), if applicable, or to ACF.

As of March 5, 1999, the following jurisdictions have elected NOT to participate in the Executive Order process:

Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau.

Applicants from these 24 jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has sixty (60) days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which may

trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor West, Aerospace Center, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

A list of the SPOCs for each State and Territory is included as Attachment G to this Announcement.

E. Application Consideration

Applications that meet the screening requirements below will be reviewed competitively. Such applications will be referred to reviewers for numerical scoring and explanatory comments based solely on responsiveness to the guidelines and evaluation criteria published in this Announcement.

Applications will be reviewed by persons outside of the OCS unit. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to: The timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; the amount and duration of the grant requested and the proposed project's consistency and harmony with OCS goals and policy; geographic distribution of applications; previous program performance of applicants; the limitations on project continuation or refunding (see Part II, Section H); the number of previous JOLI grants made to applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of mobilized resources as set forth in project applications; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowance's on previous OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to verify the applicant's performance record and the documents submitted.

F. Criteria for Screening Applications

All applications that meet the published deadline requirements as provided in this Program Announcement will be screened for completeness and conformity with the requirements. Only complete applications that meet the requirements listed below will be reviewed and evaluated competitively. Other applications will be returned to the applicant with a notation that they were unacceptable and will not be reviewed.

The following requirements must be met by all applicants:

1. The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget (SF–424A), and signed ''Assurances'' (SF–424B) completed according to instructions published in Part VI and Attachments C and D, of this Program Announcement.

2. All JOLI applications must include a signed cooperative partnership agreement within the designated State Agency responsible for administering the TANF Program, or a letter of commitment to such an agreement within six months of a grant award, contingent only on receipt of OCS funds. This cooperative partnership agreement must fully describe the role and/or responsibilities of each partner for specific activities and/or services to be provided which must clearly relate to the objectives of the proposed project.

3. A project narrative must also accompany the standard forms. OCS requires that the narrative portion of the application be limited to 30 pages, typewritten on one side of the paper only with one-inch margins and type face no smaller than 12 characters per inch (c.p.i.) or equivalent. The Budget Narrative Charts, exhibits, resumes, position descriptions, letters of support, cooperative agreements, and business plans (where required) are not counted against this page limit. It is strongly recommended that applicants follow the format and content for the narrative set out in Part IV.

4. The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally. Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

5. Application must contain documentation of the applicant's tax exempt status as required under Part II, Section A.

6. *Written Agreement When Applicant Proposes to Make Equity Investment or Loan:* The application must contain a written third party agreement, or a discussion of a proposed agreement, signed by the applicant and the third party that includes all of the elements required in Part III, Section N.

Part VI—Instructions for Completing the SF–424

(Approved by the Office of Management and Budget under Control Number 0970–0062, expiration date October 31, 2001.)

The standard forms attached to this Announcement shall be used to apply for funds under this Program Announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms (Attachments B and C) as modified by the OCS specific instructions set forth below:

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification, which describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

A. SF–424—Application for Federal Assistance

Top of Page. Please enter the single priority area number under which the application is being submitted (1.0 or 2.0). An application should be submitted under only one priority area.

Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled Federal Identifier located at the top right hand corner of the form.

Item 1. For the purposes of this Announcement, all projects are considered Applications; there are no Pre-Applications.

Item 7. Enter N in the box and specify non-profit corporation on the line marked Other.

Item 9. Name of Federal Agency—Enter HHS-ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS

programs covered under this Announcement is 93.593. The title is ''Job Opportunities for Low-Income Individuals Program''.

Item 11. In addition to a brief descriptive title of the project, indicate the priority area for which funds are being requested. Use the following letter designations:

JO—General Project
JS—Community Development Corporation Set-Aside

Item 13. ''Proposed Project''—The ending date should be based on the requested project period, not to exceed three years (36 months).

Item 15a. This amount should be no greater than $500,000.

Item 15b-e. These items should reflect both cash and third-party, in-kind contributions for the three year budget period requested.

B. ''SF–424A—Budget Information-Non-Construction Programs''

In completing these sections, the Federal Funds budget entries will relate to the requested OCS funds only, and Non-Federal will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in ''Non-Federal'' entries.

Section A, B, and C of SF–424A should reflect budget estimates for each year of the budget period for which funding is being requested.

Section A—Budget Summary

You need only fill in lines 1 and 5 (with the same amounts) Column (a): Enter Job Opportunities for Low-Income Individuals Program. Column (b): Catalog of Federal Domestic Assistance number is 93.593.

—Columns (c) and (d): not relevant to this program.
—Columns (e)–(g): enter the appropriate amounts (column e should not be more than $500,000).

Section B—Budget Categories

(Note that the following information supersedes the instructions provided with the Form SF–424A in Attachment C)

Columns (1)–(5): For each of the relevant Object Class Categories:

—Column 1: Enter the OCS grant funds for the first year;
—Column 2: Enter the OCS grant funds for the second year (where appropriate);
—Column 3: Enter the OCS grant funds for the third year (where appropriate);
—Column 4: Leave Blank.
—Column 5: Enter the total Federal OCS grant funds for the total budget period by Class Categories, showing a total budget of not more than $500,000.

Note: With regard to Class Categories, only out-of-town travel should be entered under Category c. Travel. Local travel costs should be entered under Category h. Other. Equipment costing less than $5000 should be included in Category e. Supplies.

Section C—Non-Federal Resources

This section is to record the amounts of ''non-Federal'' resources that will be used to support the project. For the purposes of this application, ''non-Federal'' resources means other than the OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act program, should be entered on these lines. Provide a brief listing of these ''non-Federal'' resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party cash or in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process under the Public-Private Partnerships program element.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individual(s) from which resources will be received.

Note: Even though there is no matching requirement for the JOLI Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application. (See Part IV, Element V.)

This Section should be completed in accordance with the instructions provided.

Section D, E, and F may be left blank.

A supporting Budget Narrative must be submitted providing details of expenditures under each budget category, and justification of dollar amounts which relate the proposed expenditures to the work program and goals of the project. (See Part IV, Element VI)

C. SF–424B Assurances—Non-Construction

All applicants must fill out, sign, date and return the ''Assurances'' with the application. (See Attachment D)

Part VII—Contents of Application and Receipt Process

A. Contents of Application

Each JOLI Application must include all of the following, in the order listed below:

1. Table of Contents;

2. An Abstract of the Proposed Project—very brief, not to exceed 250 words, that would be suitable for use in an announcement that the application has been selected for a grant award; which identifies the type of project(s), the target population, and the major elements of the work plan;

3. Completed Standard Form 424 which has been signed by an Official of the organization applying for the grant who has authority to obligate the organization legally;

Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization.)

4. Budget Information-Non-Construction Programs—(SF–424A);

5. A narrative budget justification for each object class category required under Section B, SF–424A;

6. Certifications and Assurance Required for Non-Construction Programs, as follows:

Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, ''Assurances: Non-Construction Programs''. Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a Certification Regarding Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. Copies of the certifications and assurance are located at the end of this Announcement.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back a certification form.

7. Certification Regarding Environmental Tobacco Smoke—Signature on the application attests to the applicants intent to comply with the requirements of the Pro-Children Act of 1994 (no signature required on form).

8. A Project Narrative of no more than 30 pages, consisting of the Elements

described in Part IV of this Announcement set forth in the order there presented; preceded by a consecutively numbered Table of Contents (not to be counted as part of the 30 pages).

9. Appendices—proof of non-profit tax-exempt status as outlined in Part II, Section A; proof that the organization is a community development corporation, if applying under the CDC Set-aside; commitments from officials of businesses that will be expanded or franchised, where applicable; partnership agreement with the designated State TANF agency and CSE agency; Single Point of Contact comments, if applicable; resumes and position descriptions; a Business Plan, where required; and the Maintenance of Effort Certification (See Part II–J and Attachment M).

The total number of pages for the narrative portion of the application package must not exceed 30 pages, excluding Appendices and Narrative Table of Contents. See Part V(f) (c) for pages that do not count against the 30-page limit.

Pages should be numbered sequentially throughout, including Appendices, beginning with the Abstract as Page 1. The application may also contain letters that show collaboration or substantive commitments to the project by organizations other than the designated TANF agency. Such letters are not part of the narrative and should be included in the Appendices. These letters are, therefore, not counted against the 30 page limit.

B. Application Format

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. Applications must not include colored, oversized or folded materials. Applications should not include organizational brochures or other promotional materials, slides, films, clips, etc., in the proposal. Such material will not be reviewed and will be discarded if included.

Applications must be bound or enclosed in loose-leaf binder notebooks. Preferably, applications should be two-holed punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip.

C Acknowledgment of Receipt

Applicants who meet the initial screening criteria outlined in Part V, Section E, will receive within ten days after the deadline date for submission of applications, an acknowledgment with an assigned identification number. To facilitate receipt of this acknowledgment from ACF, applicant is asked to include a cover letter with the application containing an E-mail address and facsimile (FAX) number if these items are available to applicant.

Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgment notice. This mailing label should reflect the mailing address of the authorizing official who is applying on behalf of the organization. This number and the program letter code, i.e., JO or JS, must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgment is not received within three weeks after the deadline date, please notify ACF by telephone (202) 401–5103.

Part VIII—Post Award Information and Reporting Requirements

A. Notification of Grant Award

Following approval of the application selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award, which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

B. Attendance at Evaluation Workshops

The Project Directors and third-party evaluators will be required to attend two national evaluation workshops in Washington, DC. A three-day program development and evaluation workshop will be scheduled shortly after the effective date of the grant. They also will be required to attend, as presenters, the final evaluation workshop on utilization and dissemination to be held at the end of the project period. Project budgets must include funds for travel to and attendance at these workshops. (See Part IV, Element VI, Budget Appropriateness and Reasonableness.)

C. Reporting Requirements

Grantees will be required to submit semi-annual program progress and financial reports (SF 269) as well as a final program progress and financial report within 90 days of the expiration of the grant. An annual evaluation report will be due 30 days after each twelve months. A written draft policies and procedures manual based on the finding of the process evaluation should be submitted along with the first annual evaluation report. A final evaluation report will be due 90 days after the expiration of the grant.

D. Audit Requirements

Grantees are subject to the audit requirements in 45 CFR Part 74 (non-profit organization) and OMB Circular A–133.

E. Prohibitions and Requirements With Regard to Lobbying

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the non-appropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification.

The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H for certification and disclosure forms to be submitted with the applications for this program.

F. Applicable Federal Regulations

Attachment K indicates the regulations that apply to all applicants/grantees under the Job Opportunities for Low-Income Individuals Program.

Dated: October 4, 1999.

Donald Sykes,

Director, Office of Community Services.

Job Opportunities for Low-Income Individuals; Attachments

A Poverty Income Guidelines for the 48 Contiguous States and the District of Columbia
B Standard Form 424
C Standard Form 424A
D Standard Form 424B
E Certification Regarding Drug-Free Workplace Requirements
F Certification Regarding Debarment, Suspension and Other Responsibility Matters
G State Single Point of Contact Listing Maintained by OMB
H Certification Regarding Lobbying Activities and Disclosure of Lobbying Activities, SF-LLL
I State Human Services Administrators
J Certification Regarding Environmental Tobacco Smoke
K DHHS Regulations Applying to All Applicants/Grantees Under the Job Opportunities for Low-Income Individuals (JOLI) Program
L Business Plan
M Certification Regarding Maintenance of Effort
N OCSE IV–D Report
O Applicant's Checklist

Attachment A

Size of family unit	Poverty guideline
1999 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA	
1	$8,240
2	11,060
3	13,880
4	16,700
5	19,520
6	22,340
7	25,160
8	27,980
For family units with more than 8 members, add $2,820 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).	
1999 POVERTY GUIDELINES FOR ALASKA	
1	10,320
2	13,840
3	17,360
4	20,880
5	24,400
6	27,920
7	31,440
8	34,960
For family units with more than 8 members, add $3,520 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).	
1999 POVERTY GUIDELINES FOR HAWAII	
1	9,490
2	12,730
3	15,970
4	19,210
5	22,450
6	25,690
7	28,930
8	32,170
For family units with more than 8 members, add $3,240 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).	

BILLING CODE 4184–01–P

Attachment B

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code):*	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

Previous Edition Usable
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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided.

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–M

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-10

Previous Edition Usable

Attachment C

BILLING CODE 4184-01-C

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the Totals for All Columns Used

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Seciton E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment D

Assurancs—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing

data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPMs's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93–523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

TITLE

APPLICANT ORGANIZATOIN

DATE SUBMITTED

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW, Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application, If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a pea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, country, state, zip code)

_____

_____

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Attachment F

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the

department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The perspective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principles:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency:

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such

prospective participant shall attach an explanation to this proposal.

Attachment G

State Single Point of Contact Listing Maintained by OMB

In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' Section 4, ''the Office of Management and Budget (OMB) shall maintain a list of official State entities designated at the States to review and coordinate proposed Federal financial assistance and direct Federal development.'' This attached listing is the OFFICIAL OMB LISTING. This listing is also published in the Catalogue of Federal Domestic Assistance biannually.

August 23, 1999

OMB State Single Point of Contact Listing*

Arizona

Joni Saad
Arizona State Clearinghouse
3800 N. Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone: (602) 280–1315
FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
515 W. 7th St., Room 412
Little Rock, Arkansas 72203
Telephone: (501) 682–1074
FAX: (501) 682–5206

California

Grants Coordination
State Clearinghouse
Office of Planning & Research
1400 Tenth Street, Room 121
Sacramento, California 95814
Telephone: (916) 445–0613
FAX: (916) 323–3018

Delaware

Francine Booth
State Single Point of Contact
Executive Department
Office of the Budget
540 S. Dupont Highway
Suite 5
Dover, Delaware 19901
Telephone: (302) 739–3326
FAX: (302) 739–5661

District of Columbia

Charles Nichols
State Single Point of Contact
Office of Grants Mgmt. & Dev.
717 14th Street, N.W. Suite 1200
Washington, D.C. 20005
Telephone: (202) 727–1700 (direct)
(202) 727–6537 (secretary)
FAX: (202) 727–1617

Florida

Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399–2100
Telephone: (850) 922–5438
FAX: (850) 414–0479
Contact: Cherie Trainor
(850) 414–5495

Georgia

Deborah Stephens
Coordinator
Georgia State Clearinghouse
270 Washington Street, S.W.—8th Floor
Atlanta, Georgia 30334
Telephone: (404) 656–3855
FAX: (404) 656–7901

Illinois

Virginia Bova, State Single Point of Contact
Illinois Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph, Suite 3–400
Chicago, Illinois 60601
Telephone: (312) 814–6028
FAX (312) 814–1800

Indiana

Renee Miller
State Budget Agency
212 State House
Indianapolis, Indiana 46204–2796
Telephone: (317) 232–2971 (directline)
FAX: (317) 233–3323

Iowa

Steven R. McCann
Division for Community Assistance
Iowa Department of Economic Development
200 East Grand Avenue
Des Monies, Iowa 50309
Telephone: (515) 242–4719
FAX: (515) 242–4809

Kentucky

Kevin J. Goldsmith, Director
Sandra Brewer, Executive Secretary
Intergovernmental Affairs
Office of the Governor
700 Capitol Avenue
Frankfort, Kentucky 40601
Telephone: (502) 564–2611
FAX: (502) 564–0437

Maine

Joyce Benson
State Planning Office
184 State Street
38 State House Station
Augusta, Maine 04333
Telephone: (207) 287–3261
FAX: (207) 287–6489

Maryland

Linda Janey
Manager, Plan & Project Review
Maryland Officer of Planning
301 W. Preston Street—Room 1104
Baltimore, Maryland 21201–2365
Staff Contact: Linda Janey
Telephone: (410) 767–4490
FAX: (410) 767–4480

Michigan

Richard Pfaff
Southeast Michigan Council of Governments
660 Plaza Drive—Suite 1900
Detroit, Michigan 48226
Telephone: (313) 961–4266
FAX: (313) 961–4869

Mississippi

Cathy Mallette
Clearinghouse Officer
Department of Finance and Administration
550 High Street
303 Walters Sillers Building
Jackson, Mississippi 39201–3087
Telephone: (601) 359–6762
FAX: (601) 359–6758

Missouri

Lois Pohl
Federal Assistance Clearinghouse
Office of Administration
P.O. Box 809
Jefferson Building, 9th Floor
Jefferson City, Missouri 65102
Telephone: (314) 751–4834
FAX: (314) 751–7819

Nevada

Department of Administration
State Clearinghouse
209 E. Musser Street, Room 220
Carson City, Nevada 89710
Telephone: (702) 687–4065
FAX: (702) 687–3983
Contact: Heather Elliot
(702) 687–6367

New Hampshire

Jeffrey H. Taylor
Director, New Hampshire Office of State Planning
Attn: Intergovernmental Review Process
Mike Blake
2½ Beacon Street
Concord, New Hampshire 03301
Telephone: (603) 271–2155
FAX: (603) 271–1728

New Mexico

Nick Mandell
Local Government Division
Room 201 Bataan Memorial Building
Santa Fe, New Mexico 87503
Telephone: (505) 827–3640
Fax: (505) 827–4984

New York

New York State Clearinghouse
Division of the Budget
State Capitol
Albany, New York 12224
Telephone: (518) 474–1605
FAX: (518) 486–5617

North Carolina

Jeanette Furney
North Carolina Department of Administration
116 West Jones Street—Suite 5106
Raleigh, North Carolina 27603–8003
Telephone: (919) 733–7232
FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact
Office of Intergovernmental Assistance
600 East Boulevard Avenue
Bismarck, North Dakota 58505–0170
Telephone: (701) 224–2094
FAX: (701) 225–2308

Rhode Island

Kevin Nelson
Review Coordinator
Department of Administration

Division of Planning
One Capitol Hill, 4th Floor
Providence, Rhode Island 02908–5870
Telephone: (401) 277–2656
FAX: (401) 277–2083

South Carolina

Omeagia Burgess
State Single Point of Contact
Budget and Control Board
Office of State Budget
1122 Ladies Street—12th Floor
Columbia, South Carolina 29201
Telephone: (803) 734–0494
FAX: (803) 734–0645

Texas

Tom Adams
Governors Office
Director, Intergovernmental Coordination
P.O. Box 12428
Austin, Texas 78711
Telephone: (512) 463–1771
FAX: (512) 936–2681

Utah

Carolyn Wright
Utah State Clearinghouse
Office of Planning and Budget
Room 116 State Capitol
Salt Lake City, Utah 84114
Telephone: (801) 538–1027
FAX: (801) 538–1547

West Virginia

Fred Cutlip, Director
Community Development Division
W. Virginia Development Office
Building #6, Room 553
Charleston, West Virginia 25305
Telephone: (304) 558–4010
FAX: (304) 558–3248

Wisconsin

Jeff Smith
Section Chief, Federal/State Relations
Wisconsin Department of Administration
101 East Wilson Street—6th Floor
P.O. Box 7868
Madison, Wisconsin 53707
Telephone: (608) 266–0267
FAX: (608) 267–6931

Wyoming

Sandy Ross
State Single Point of Contact
Department of Administration and Information
2001 Capitol Avenue, Room 214
Cheyenne, WY 82002
Telephone: (307) 777–5492
FAX: (307) 777–3696

TERRITORIES

Guam

Joseph Rivera
Acting Director
Bureau of Budget and Management Research
Office of the Governor
P.O. Box 2950
Agana, Guam 96932
Telephone: (671) 475–9411 or 9412
FAX: (671) 472–2825

Puerto Rico

Jose Caballero-Mercado
Chairman
Puerto Rico Planning Board
Federal Proposals Review Office
Minillas Government Center
P.O. Box 41119
San Juan, Puerto Rico 00940–1119
Telephone: (787) 727–4444
FAX: (787) 724–3270

North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer
Office of Management and Budget
Office of the Governor
Saipan, MP 96950
Telephone: (670) 664–2256
FAX: (670) 664–2272
Contact person: Ms. Jacoba T. Seman
Federal Programs Coordinator
Telephone: (670) 664–2289
FAX: (670) 664–2272

Virgin Islands

Nellon Bowry
Director, Office of Management and Budget
#41 Norregade Emancipation Garden Station, Second Floor
Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069.

If you would like a copy of this list faxed to your office, please call our publications office at: (202) 395–9068.

In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' this listing represents the designated State Single Points of Contact. The jurisdictions not listed no longer participate in the process BUT GRANT APPLICANTS ARE STILL ELIGIBLE TO APPLY FOR THE GRANT EVEN IF YOUR STATE, TERRITORY, COMMONWEALTH, ETC DOES NOT HAVE A ''STATE SINGLE POINT OF CONTACT.'' STATES WITHOUT ''STATE SINGLE POINTS OF CONTACT'' INCLUDE: Alabama, Alaska; American Samoa; Colorado; Connecticut; Hawaii; Idaho; Kansas; Louisiana; Massachusetts, Minnesota; Montana; Nebraska; New Jersey; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont, Virginia; and Washington. This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal Domestic Assistance.

Attachment H

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when the transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

BILLING CODE 4184–01–M

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184–01–C

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. It this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, *e.g.,* the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''Subawardee,'' then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description of the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number of grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (*e.g.,* Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, *e.g.,* ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award of loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 of influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503. to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Attachment I

State Human Services Administrators

A

Mr. Tony Petelos
Commissioner
Alabama State Department of Human Resources
50 Ripley Street
Montgomery, AL 36130–4000
Phone: (334) 242–1160
FAX: (334) 242–0198

Ms. Karen Perdue
Commissioner
Alaska Department of Health and Social Services
P.O. Box 110601
Juneau, AK 99811–0601
Phone: (907) 465–3030
FAX: (907) 465–3068

Ms. Marie Ma'o
Director
American Samoa Department of Social Services
Pago Pago, AS 96799
Phone: 011 (684) 633–2969
FAX: 011 (684) 633–7449

Mr. John L. Clayton
Director
Arizona Department of Economic Security
P.O. Box 6123, Site Code 010A
Phoenix, AZ 85005
Phone: (602) 542–5678
FAX: (602) 542–5339

Mr. Kurt Knickrehm
Director
Arkansas Department of Human Services
P.O. Box 1437—Suite 329
Little Rock, AR 72203–1437
Phone: (501) 682–8650
FAX: (501) 682–6836

C

Mr. Grantland Johnson
Secretary
California Health and Welfare Agency
1600 Ninth Street, Room 460
Sacramento, CA 95814
Phone: (916) 654–3345
FAX: (916) 654–3343

Mrs. Marva Livingston Hammons
Executive Director
Colorado Department of Human Services
1575 Sherman Street, 8th Floor
Denver, CO 80203–1714
Phone: (303) 866–5096
FAX: (303) 866–4740

Ms. Patricia A. Wilson-Coker
Commissioner
Connecticut Department of Social Services
25 Sigourney Street
Hartford, CT 06106
Phone: (860) 424–5008
FAX: (860) 424–4960

D

Dr. Gregg C. Sylvester
Secretary
Delaware Department of Health & Social Services
Herman M. Holloway Campus
Administration Building, 1st floor
1901 N. DuPont Highway
New Castle, DE 19720
Phone: (302) 577–4500
FAX: (302) 577–4510

Mrs. Jearline Williams
Director
D.C. Department of Human Services
801 East Building
2700 Martin Luther King, Jr. Avenue
Washington, DC 20032
Phone: (202) 279–6002
FAX: (202) 279–6014

F

Judge Kathleen Kearney
Secdretary
Florida Department of Children and Families
Building 1, Room 202
1317 Winewood Boulevard
Tallahassee, FL 32399–0700
Phone: (850) 487–1111
FAX: (850) 922–2993

Mr. Robert G. Brooks
Secretary
Florida Department of Health
2020 Capital Circle, S.E., BIN 800
Tallahassee, FL 32399–0701
Phone: (850) 487–2945
FAX: (850) 487–3729

G

Ms. Audrey Horne
Commissioner
Georgia Department of Human Resources
2 Peach Tree Street, N.W., Suite 29–250
Atlanta, GA 30303
Phone: (404) 656–5680
FAX: (404) 651–8669

Mr. Dennis G. Rodriguez
Director
Guam Department of Public Health and Social Services

P.O. Box 2816
Agana, GU 96932
Phone: 011 (671) 734–7102
FAX: 011 (671) 734–5910

H

Ms. Susan Chandler
Director
Hawaii Department of Human Services
P.O. Box 339
Honolulu, HI 96809–0339
Phone: (808) 586–4997
FAX: (808) 586–4890

I

Mr. Karl Kurtz
Director
Idaho Department of Health and Welfare
P.O. Box 83720
Boise, ID 83720–0036
Phone: (208) 334–5500
FAX: (208) 334–6558

Mr. Howard Peters
Secretary
Illinois Department of Human Services
Harris Building, 3rd floor
100 South Grand Avenue, East
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Attachment J

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment K

DHHS Regulations Applying to All Applicants/ Grantees Under the Job Opportunities for Low-Income Individuals (JOLI) Program

Title 45 of the Code of Federal Regulations:

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (grants and sub-grants to entities)
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-Discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act Of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Regulation for the Administration and Enforcement of Sections 799A and 845 of the Public Health Service Act
Part 84—Non-discrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance

Part 85—Enforcement of Non-Discrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services
Part 86—Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment L

Business Plan

The business plan is one of the major components that will be evaluated by OCS to determine the feasibility of a jobs creation project. A business plan must be included if, the applicant is proposing to establish a new identified business, or if the applicant will be providing assistance to a private third party employer for the development or expansion of a pre-identified business.

The following guidelines were written to cover a variety of possibilities regarding the requirements of a business plan. Rigid adherence to them is not possible nor even desirable for all projects. For example, a business plan for a service business would not require discussion of manufacturing nor product designs. Therefore, the business plans should be prepared in accordance with the following guidelines:

1. *The business and its industry.* This section should describe the nature and history of the business and include background on its industry.

a. *The Business:* as a legal entity; the general business category;

b. *Description and Discussion of Industry:* Current status and prospects for the industry.

2. *Products and Services:* This section deals with the following:

a. *Description:* Describe in detail the products or services to be sold;

b. *Proprietary Position:* Describe proprietary features, if any, of the product, e.g. patents, trade secrets; and,

c. *Potential:* Features of the product or service that may give it an advantage over the competition.

3. *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition;

a. *Customers:* Describe the actual and potential purchasers for the product or service by market segment;

b. *Market Size and Trends:* State the size of the current total market for the product or service offered;

c. *Competition:* An assessment of the strengths and weaknesses of competitive products and services; and,

d. *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market.

4. *Marketing Plan:* The marketing plan must describe what is to be done, how it will be done and who will do it. The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* This section of the plan should cover items such as Development Status, Tasks, Difficulties and Risks, Product Improvement, New Products and Costs. If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should described the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. *Management Team:* This section must include a description of: the key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and, supporting professional services. The management team is key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in operating the proposed business.

8. *Overall Schedule:* This section must include a month-by-month schedule that shows the timing of such major events, activities and accomplishments involving product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the correlation between the timing of the primary tasks required to accomplish each activity.

9. *Critical Risks and Assumptions:* This section should include a description of the risks and critical assumptions/problems relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture. Identify and discuss the critical assumptions/problems to overcome in the Business Plan. Major problems must clearly identify problems to be solved to develop the venture.

10. *Community Benefits:* The applicant should describe how the proposed project will contribute to the local economy, community and human economic development within the project's target area.

11. *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency of the business. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

a. Profit and Loss Forecasts—quarterly for each year;
b. Cash Flow Projections—quarterly for each year;
c. Pro forma balance sheets—quarterly for each year;
d. Initial sources of project funds;
e. Initial uses of project funds; and
f. Any future capital requirements and sources.

12. *Facilities:* If rearrangement or alteration of existing facilities is required to implement the project, the applicant must describe and justify such changes and related costs.

Attachment M

Certification Regarding Maintenance of Effort

In accordance with the applicable program statute(s) and regulation(s), the undersigned certifies that financial assistance provided by the Administration for Children and Families, for the specified activities to be performed under the _____ Program by _____ (Applicant Organization), will be in addition to, and not in substitution for, comparable activities previously carried on without Federal assistance.

_____
Signature of Authorized Certifying Official

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BILLING CODE 4184–01–M

Attachment O

APPLICANT'S CHECKLIST

This checklist will assist you with preparing and assembling your application. Completing the checklist can help ensure that you do not omit key information. Because this checklist is used by many ACF programs, some of the information might not apply to your application. This checklist DOES NOT have to be completed and returned with your application.

	Yes	Included	N/A
Authorizing official read and understood Certification Regarding Debarment, Suspension, and Other Responsibility Matters?			
Authorizing official read and understood Certification Regarding Drug-Free Workplace Requirements--Grantees Other Than Individuals?			
Authorizing official read and understood Certification Regarding Environmental Tobacco Smoke?			
Application for Federal Assistance (SF 424) was completed? Proper Signature and Date for Line 18?			
Budget Information--Non-Construction Programs (SF 424A) or Budget Information--Construction Programs (SF 424C) was completed?			
Assurances-- Non-Construction Programs (SF 424B) or Assurances--Construction Programs (SF 424D)was completed? (Proper Signature and Date?)			
Certification Regarding Lobbying was completed? (Proper Signature and Date?)			
Disclosure of Lobbying Activities was completed? (Proper Signature and Date?)			
Other special certifications, assurances, and/or disclosures required under the program were completed (e.g., maintenance of effort certification)?			
Proof of nonprofit status was provided?			
Has additional information such as biographicalsketch(es) with job description(s) and other additional information been attached, when required?			
For a Supplemental application, does the detailed budget only address the additional funds requested?			
Checked all budget computations for accuracy?			

FOLLOW-UP QUESTIONS

	YES	N/A
On the Application for Federal Assistance (SF 424),		
⇒ did you enter the application number issued by the sponsoring ACF office in the "Federal Identifier" block?		
⇒ did you type the 12 digit Payee EIN or PIN previously assigned to your organization by DHHS in the "Federal Identifier" block?		
⇒ is the EIN in Item #6 assigned to the organization and organizational unit named in Item #5?		
⇒ did you include city, county, state and zip code of the applicant did organization in Item #5?		
⇒ has the appropriate box been checked in Item #16?		
⇒ has the entire proposed project period been identified in Item #13?		
On the Budget Information form (SF 424A or SF 424C),		
⇒ do the totals in Section B match the totals provided in the budget and budget narrative?		

SUGGESTED ORDERING OF APPLICATION MATERIALS

FRONT MATTER			STANDARD APPLICATION FORMS			PROJECT DESCRIPTION	DISCLOSURES CERTIFICATIONS			END MATTER
COVER LETTER	Table of Contents	Project Abstract (executive summary)	SF 424	SF 424A or SF 424C	SF 424B or SF 424D	Project Descrip-tion	Certification regarding lobbying	Disclosure of lobbying activities	other Assurances and Certs	appendix resumes, letters of support, maps, etc.

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Federal Register

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Part III

Department of Housing and Urban Development

Regulatory Waiver Requests Granted; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4512–N–02]

Notice of Regulatory Waiver Requests Granted

AGENCY: Office of the Secretary, HUD.

ACTION: Public Notice of the Granting of Regulatory Waivers from April 1, 1999 through June 30, 1999.

SUMMARY: Under the Department of Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), HUD is required to make public all approval actions taken on waivers of regulations. This notice is the thirty-fourth in a series, published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–3055 (this is not a toll-free number). Hearing-or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address is set out for the particular item in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This is the thirty-fourth notice of its kind to be published under section 106 of the HUD Reform Act. This notice updates HUD's waiver-grant activity from April 1, 1999 through June 30, 1999.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 58.73 (involving the waiver of a provision in 24 CFR part 58) would come early in the sequence, while waivers of 24 CFR part 990 would be among the last matters listed.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.)

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between July 1, 1999 through September 30, 1999.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: October 4, 1999.

Andrew Cuomo,

Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development, April 1, 1999 through June 30, 1999

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly before each set of waivers granted.

For Items 1 Through 7, Waivers Granted for 24 CFR Part 92, Contact: Cornelia Robertson Terry, Field Management Division, Office of Executive Services, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

1. Regulation: 24 CFR 92.2.

Project Activity: The City of Baltimore, Maryland requested a waiver of certain requirements contained in the definition of the term ''single room occupancy (SRO)'' for a project that will consist of assisted living units for the elderly. The project will be converted from an old fire house.

Nature of Requirement: 24 CFR 92.2 contains the definition of the term ''single room occupancy (SRO)''. The definition requires that SRO units in projects that consist of new construction, conversion of non-residential space, or reconstruction must contain either sanitary or food preparation facilities.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: May 6, 1999.

Reasons Waived: HUD determined that there was good cause to grant the waiver. The project could not go forward if separate sanitary or food preparation facilities would be required in each unit. These facilities will be available for the low-income elderly residents of the project by installing shared sanitary facilities and a common dining area.

2. Regulation: 24 CFR 92.251.

Project/Activity: The State of Oklahoma requested a waiver of the HOME Program property standards with respect to funds expended in Midwest City, Oklahoma.

Nature of Requirement: 24 CFR 92.251 requires that housing units assisted with HOME funds meet certain property standards, which vary according to the activity undertaken.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: June 9, 1999.

Reasons Waived: HUD determined that there was good cause to grant the waiver. The waiver is needed to facilitate the use of HUD funds for emergency repairs to homes and on-site infrastructure damaged by tornadoes. The waiver extends to State HOME funds expended for damaged properties in Midwest City and any other areas included in the Presidential disaster declaration.

3. Regulation: 24 CFR 92.254(a)(4).

Project/Activity: The City of Little Rock, Arkansas requested a waiver of the affordability and repayment requirements for HOME-assisted housing.

Nature of Requirement: 24 CFR 92.254(a)(4) requires HOME-assisted housing to meet certain affordability requirements.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: June 9, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver because the City had lost two units out of a seven unit HOME-funded rental development as a result of tornado damage that occurred on January 21, 1999.

4. Regulation: 24 CFR 92.500(d)(1)(C).

Project/Activity: Lake County, Illinois requested an extension of the five-year deadline for the expenditure of HOME disaster grant funds.

Nature of Requirement: 24 CFR 92.500(d)(1)(C) states that HUD shall recapture any HOME funds not expended within five years after the last day of the month in which HUD notified the grantee of its execution of the HOME partnership agreement.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 30, 1999.

Reasons Waived: HUD determined that there was good cause to grant this waiver. The HOME funds will be used to assist the homeowners in the Williams Park subdivision, a low-income area that suffered severely from the 1993 floods and has a recurring flooding problem. The funds will be used to provide deferred home loans for people being displaced by a FEMA-funded acquisition and demolition program.

5. Regulation: 24 CFR 92.500(d)(1)(C).

Project/Activity: St. Louis, Missouri requested an extension of the five-year deadline for the expenditure of HOME disaster grant funds.

Nature of Requirement: 24 CFR 92.500(d)(1)(C) states that HUD shall recapture any HOME funds not expended within five years after the last day of the month in which HUD notified the grantee of its execution of the HOME partnership agreement.

Granted By: Kenneth G. Williams, Deputy Assistant Secretary for Community Planning and Development.

Date Granted: May 4, 1999.

Reasons Waived: HUD determined that there was good cause to grant this waiver.

6. Regulation: 24 CFR 92.500(d)(1)(B) and (C).

Project/Activity: The County of Los Angeles, California requested a waiver of commitment and expenditure deadlines in the HOME program.

Nature of Requirement: 24 CFR 92.500(d)(1)(B) and (C) require HOME funds to be committed within two years and expended within five years of the time HUD makes funds available.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: June 7, 1999.

Reasons Waived: HUD determined that there was good cause for both waivers. The need for the disbursement extension arose from legal issues that temporarily stalled the project. The County will be able to commit additional funds from its HOME disaster grant to the Abraham project until June 30, 1999. The County will be able to disburse additional funds from its HOME disaster grant to the Abraham project until June 30, 2000 .

7. Regulation: 24 CFR 92.500(d)(1)(C).

Project/Activity: The State of Florida requested an extension of the five-year deadline for the expenditure of HOME disaster grant funds.

Nature of Requirement: 24 CFR 92.500(d)(1)(C) states that HUD shall recapture any HOME funds not expended within five years after the last day of the month in which HUD notified the grantee of its execution of the HOME partnership agreement.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: June 29, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver because of the profound needs and difficulties associated with providing relief from disaster damage.

For Item 8, Waiver Granted for 24 CFR Part 207, Contact: James B. Mitchell, Eastern and Atlantic Servicing Branch, Office of Portfolio Management, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3730. Hearing-or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

8. Regulation: 24 CFR 207.259(b)(2)(iv).

Project/Activity: Timberland Apartments, Williamsport, Pennsylvania, project Number: 034–32036.

Nature of Requirement: 24 CFR 207.259(b)(2)(iv) states that, in the event of a default, 1 percent of the mortgage funds advanced to a mortgagor and not repaid as of the date of default shall be deducted from the amount paid on an insurance claim.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 12, 1999.

Reasons Waived: The Commonwealth of Pennsylvania requested a waiver in connection with the refunding of certain outstanding 11(b) bonds, issued in 1979. These bonds financed construction of Timberland Apartments, a Section 8 assisted insured project. The waiver was granted to assure purchasers of the bonds that the project would not be disadvantaged in the event of an insurance claim.

For Item 9, Waiver Granted for 24 CFR PART 234, Contact: Vance T. Morris, Director, Home Mortgage Insurance Division, Office of Insured Single Family Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2700. Hearing-or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

9. Regulation: 24 CFR 234.1.

Project/Activity: Manufactured housing in Colton, California.

Nature of Requirement: 24 CFR 234.1 excepts manufactured homes from eligibility for condominium mortgage insurance.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 23, 1999.

Reasons Waived: 24 CFR 234.1 must be waived for manufactured homes in condominium developments to be eligible for FHA mortgage insurance. The waiver was granted to allow a developer in Colton, California to obtain FHA mortgage insurance for manufactured housing that has been permanently erected for more than one

year. The waiver was conditioned upon all the requirements listed pursuant to 24 CFR 203.43(f) and the requirement that both a builder warranty and a ten-year warranty plan be provided to homeowners.

For Item 10, Waiver Granted for 24 CFR Part 291, Contact: Art Orton, Deputy Director, Asset Management Division, Office of Insured Single Family Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1672. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

10. Regulation: 24 CFR 291.210(a).

Project/Activity: Providing HUD-owned single family properties to governmental entities and private nonprofit organizations, on a direct sales basis and with mortgage insurance, for use in the Officer Next Door Sales Program.

Nature of Requirement: 24 CFR 291.210(a) permits direct sales of HUD-owned properties, without mortgage insurance, to governmental entities and private nonprofit organizations for use in HUD and local housing or homeless programs.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 29 and June 30, 1999.

Reasons Waived: HUD approved these waivers to enable governmental entities and nonprofit organizations the opportunity to fully participate in the Officer Next Door Program by allowing them to purchase eligible properties with mortgage insurance for resale to law enforcement officers. Based on HUD's experience with REO sales, HUD determined that it would not be detrimental to the insurance fund to permit governmental entities and private nonprofit organizations to purchase properties offered with mortgage insurance for use in the Officer Next Door Sales Program.

For Items 11 Through 18, Waivers Granted for 24 CFR Parts 576, 577, 582, and 583, Contact: Cornelia Robertson Terry, Field Management Division, Office of Executive Services, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

11. Regulation: 24 CFR 576.21.

Project/Activity: The State of Wisconsin requested a waiver of the 30 percent spending limitation on essential services.

Nature of Requirement: 24 CFR 576.21 states that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) (section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act). 42 U.S.C. 11374(a)(2)(B) limits the use of assistance for essential services to 30 percent of the aggregate amount of all assistance to a State or local government under the ESG program.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 5, 1999.

Reasons Waived: 42 U.S.C. 11374(b) allows for a waiver if the grantee is able to demonstrate that other eligible activities under the program are already being carried out in the locality with other resources. The State of Wisconsin provided HUD with the necessary documentation that alternative funding would be used for the other ESG activities.

12. Regulation: 24 CFR 576.21.

Project/Activity: The City of Chicago, Illinois requested a waiver of the 30 percent spending limitation on essential services.

Nature of Requirement: 24 CFR 576.21 states that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) (section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act). 42 U.S.C. 11374(a)(2)(B) limits the use of assistance for essential services to 30 percent of the aggregate amount of all assistance to a State or local government under the ESG program.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 5, 1999.

Reasons Waived: 42 U.S.C. 11374(b) allows for a waiver if the grantee is able to demonstrate that other eligible activities under the program are already being carried out in the locality with other resources. The City provided HUD with the necessary documentation that alternative funding would be used for the other ESG activities.

13. Regulation: 24 CFR 576.21.

Project/Activity: The State of New York requested a waiver of the 30 percent spending limitation on essential services.

Nature of Requirement: 24 CFR 576.21 states that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) (section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act). 42 U.S.C. 11374(a)(2)(B) limits the use of assistance for essential services to 30 percent of the aggregate amount of all assistance to a State or local government under the ESG program.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 19, 1999.

Reasons Waived: 42 U.S.C. 11374(b) allows for a waiver if the grantee is able to demonstrate that other eligible activities under the program are already being carried out in the locality with other resources. The State of New York provided HUD with the necessary documentation that alternative funding would be used for the other ESG activities.

14. Regulation: 24 CFR 576.21.

Project/Activity: Morris County, New Jersey requested a waiver of the 30 percent spending limitation on essential services.

Nature of Requirement: 24 CFR 576.21 states that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) (section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act). 42 U.S.C. 11374(a)(2)(B) limits the use of assistance for essential services to 30 percent of the aggregate amount of all assistance to a State or local government under the ESG program.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 20, 1999.

Reasons Waived: 42 U.S.C. 11374(b) allows for a waiver if the grantee is able to demonstrate that other eligible activities under the program are already being carried out in the locality with other resources. Morris County provided HUD with the necessary documentation that alternative funding would be used for the other ESG activities.

15. Regulation: 24 CFR 576.35(a)(2).

Project/Activity: The State of Alabama requested a waiver of this provision for a project involving a homeless shelter in the City of Montgomery.

Nature of Requirement: 24 CFR 576.35(a)(2) requires State recipients to obligate their ESG program within 180 days of the date on which the State makes the grant amounts available to the State recipient.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: June 19, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver

because the nonprofit sponsor was delayed in acquiring the property for the proposed shelter site, and the failure to complete the project will adversely affect the ability of the City of Montgomery to serve its homeless population.

16. Regulation: 24 CFR 577.117.

Project/Activity: Cornerstone Advocacy Services of Bloomington, Minnesota requested a waiver of the Supportive Housing Demonstration Program regulations regarding recipient share of supportive services and operating costs.

Nature of Requirement: 24 CFR 577.117 requires the recipient to document that it has cash resources to pay the percentage of the total cost of supportive services and operating costs not funded by HUD. If this requirement is not met, HUD may withhold supportive services or operating cost payments.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: May 13, 1999.

Reasons Waived: HUD determined that there is good cause to waive this requirement to allow Cornerstone Advocacy to average the share dollars used within the program's final three years because they have met share, cumulatively, in the final three years of the grant term.

17. Regulation: 24 CFR 582.105(e).

Project/Activity: Contra Costa County Housing Authority requested a waiver of the 8 percent administrative cap for its 1993 Shelter Plus Care grant.

Nature of Requirement: 24 CFR 582.105(e) requires an 8 percent administrative cap for Shelter Plus Care grants.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: June 9, 1990.

Reasons Waived: HUD determined that there was good cause for the waiver because the housing authority will serve more persons than originally anticipated and for an additional period of time with no increase in funds.

18. Regulation: 24 CFR 583.115(b)(2).

Project/Activity: Save the Family Foundation in Mesa, Arizona requested a waiver of the Fair Market Rent (FMR) cap.

Nature of Requirement: 24 CFR 583.115(b)(2) requires that where HUD grants are used to pay for a portion of rental rates, those rates must not exceed HUD-determined FMR.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 20, 1999.

Reasons Waived: HUD determined that there was good cause to grant the waiver to Save the Family Foundation because the size of the required units for these projects makes finding available units difficult.

For Item 19, Waiver Granted For 24 CFR Part 880, Contact: Gloria Burton, Western and Pacific Servicing Branch, Office of Portfolio Management, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3730. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

19. Regulation: 24 CFR 880.606(a).

Project/Activity: Section 8 New Construction projects located in Oklahoma counties declared disaster areas after recent tornado activity.

Nature of Requirement: 24 CFR 880.606(a) requires that lease terms for Section 8 New Construction projects be for not less than 1 year.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 23, 1999.

Reasons Waived: Recent tornado activity in Oklahoma destroyed or damaged over 7,000 housing units, approximately 3,000 of which were damaged beyond repair. This created a tremendous need for short-term housing in the affected areas. HUD determined that these conditions constituted good cause to waive 24 CFR 880.606(a) and allow owners to enter into leases with terms of less than one year with disaster families.

For Items 20 Through 21, Waivers Granted For 24 CFR Part 882, Contact: Cornelia Robertson Terry, Field Management Division, Office of Executive Services, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

20 Regulation: 24 CFR 882.408(a).

Project/Activity: The Housing Authority of the City of Los Angeles, California requested a waiver from HUD.

Nature of Requirement: 24 CFR 882.408(a) requires that the initial Gross Rent for any project must not exceed the Moderate Rehabilitation Fair Market Rent (FMR) applicable to the unit on the date that the Agreement to Enter into a Housing Assistance Contract is executed.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 19, 1999.

Reasons Waived: The regulations allow a Field Office to approve initial Gross Rents that exceed the applicable FMR by up to 10 percent for all units of a given size in specified areas. The FMRs in effect would have made the projects unfeasible. HUD waived the provision, which only allows pre-Agreement exception rents to be approved on an area-wide basis, to allow project specific pre-agreement exception rents to be approved upon a showing of good cause.

21. Regulation: 24 CFR 882.803(a)(3).

Project/Activity: Lake County, Illinois requested a waiver of the provision, which prohibits the use of an existing VA facility for SRO housing.

Nature of Requirement: 24 CFR 882.803(a)(3) of the SRO regulations prohibits the use of facilities within the grounds of medical, mental, and similar public or private institutions or facilities providing psychiatric, medical, or nursing services.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 19, 1999.

Reasons Waived: HUD granted a waiver for this VA underutilized facility for SRO use because it would permit the development of a project to serve homeless singles in the suburban Chicago area that would not otherwise be possible.

For Items 22 Through 52, Waivers Granted For 24 CFR Part 891, Contact: Willie Spearmon, Director, Office of Business Products, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3000. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

22. Regulation: 24 CFR 891.100(d).

Project/Activity: Walton Rehab Hospital, Augusta, Georgia, Project Number: 061–EE059/GA06–S971–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 5, 1999.

Reasons Waived: Additional funds are required due to extensive work needed on the site prior to construction.

23. Regulation: 24 CFR 891.100(d).

Project/Activity: West Hamlin Unity Apartments, West Hamlin, West Virginia, Project Number: 045–HDO26/WV15–S971–002; Highview Unity Apartments, Charleston, West Virginia, Project Number: 045–EE010/WV–15–S971–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 10, 1999.

Reasons Waived: Although projects are modest in design and are comparable in costs, additional funds are needed for feasibility.

24. Regulation: 24 CFR 891.100(d).

Prject/Activity: Ellery Court Senior Housing, New York, New York, Project Number: 012–EE186/NY36–S961–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 11, 1999.

Reasons Waived: The fund reservation calculation for this and all other FY 1996 projects in the New York Office did not reflect the actual development cost for this job.

25. Regulation: 24 CFR 891.100(d).

Project/Activity: Sunrise Dwellings II, Delaware, Ohio, Project Number: 043–HDO32/OH16Q971001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted By William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 11, 1999.

Reasons Waived: Additional funds are necessary for project feasibility. The project's development costs are comparable to similar projects in the area, and the units are modestly designed.

26. Regulation: 24 CFR 891.100(d).

Project/Activity: Save Residential, Kansas City, Missouri, Project Number: 084HDO22WPD/MO16Q971003; The Woodland at Citadel, Kansas City, Missouri, Project Number: 084EE029WAH/MO16S71003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 30, 1999.

Reasons Waived: Increased construction activity in the area caused increased costs due to the contractors paying premium prices for materials and labor.

27. Regulation: 24 CFR 891.165.

Project/Activity: Ralston Mercy Douglass Home, Philadelphia, Pennsylvania, Project Number: 034–EE061/PA26–S961–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 19, 1999.

Reasons Waived: Additional time was required due to a change in site and lengthy negotiations with the University of Pennsylvania.

28. Regulation: 24 CFR 891.165.

Project/Activity: Odenton Senior Housing, Baltimore, Maryland, Project Number: 052–EE020/MDO6S961003; Brownlow Byron/Richey House, Project Number: 052–HDO21/MDO6Q961001; Hampton Falls, Project Number: 052–HDO22/MDO6Q961002

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 19, 1999.

Reasons Waived: HUD needed additional time to review the initial closing documents for these projects.

29. Regulation: 24 CFR 891.165.

Project/Activity: Connections Section 811, Wilmington, Delaware, Project Number: 032–HDO18–CMI/DE26–Q961–004

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 19, 1999.

Reasons Waived: The waiver was granted because the selected site is in a historic district, and additional time was required to negotiate the Memorandum of Understanding for development of the project.

30. Regulation: 24 CFR 891.165.

Project/Activity: Oakwood Senior Housing, South Brunswick, New Jersey, Project Number: 031–EE040/NJ39–S961–006

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 19, 1999.

Reasons Waived: HUD needed additional time to review the initial closing documents.

31. Regulation: 24 CFR 891.165.

Project/Activity: Haledon Consumer Home, Haledon, New Jersey, Project Number: 031–HDO75/NJ39–Q961–015

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 19, 1999.

Reasons Waived: Additional time was required for the owner to incorporate accessibility changes to accommodate persons with disabilities.

32. Regulation: 24 CFR 891.165.

Project/Activity: Riverview Manor, Blairsville, Georgia, Project Number: 061–HDO52/GAO6–Q961007

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 19, 1999.

Reasons Waived: The Sponsor/Owner had to change plans and estimates several times in order for the project to be feasible.

33. Regulation: 24 CFR 891.165.

Project/Activity: Webster Supportive Housing, Webster, Texas, Project Number: 114–HDO12–WAH/TX24–Q961–001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 30, 1999.

Reasons Waived: HUD had to approve the firm commitment and initial closing documents.

34. Regulation: 24 CFR 891.165.

Project/Activity: Ozanam Village, Chicago, Illinois, Project Number: 071–EE112/IL06–S961–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 30, 1999.

Reasons Waived: HUD needed time to review the Firm Commitment Application.

35. Regulation: 24 CFR 891.165.

Project/Activity: Presbyterian Home, West Windsor, New Jersey, Project Number: 035–EE022/NJ39–S961–001; Three Bridges Lutheran Housing, Readington, New Jersey, Project Number: 031–EE042/NJ39–S961–008; Village Supervised Apartments, Hamilton Township, New Jersey, Project Number: 035–HD034/NJ39–Q961–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 30, 1999.

Reasons Waived: Presbyterian Home—Delays were caused by the Sponsor trying to identify additional funds for project feasibility. Three Bridges Lutheran Housing—Additional time was needed by HUD to review the initial closing package. Village Supervised Apartments—Additional time was needed by HUD to process the firm commitment application and initial closing documents.

36. Regulation: 24 CFR 891.165.

Project/Activity: Mercy Gardens, San Diego, California, Project Number: 122–HDO11–WPD–NP/CA33–Q961–001; Women's Village Project, Los Angeles, California, Project Number: 122–HDO85–WPD–NP–CA16–Q961–0014.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 30, 1999.

Reasons Waived: Delays were caused by the revision of lot line adjustments and the modification of the Conditional Use Permit. HUD needed time to approve the initial closing documents.

37. Regulation: 24 CFR 891.165.

Project/Activity: Metairie Manor III, New Orleans, Louisiana, Project Number: 064–EE061–WAH–NP–L8, LA48–S961–003; Westminister Towers II, Kenner, Louisiana, Project Number: 064–EE072–WAH–NP–L8, LA–48–S961–014; Leisure Lane, Rayne, Louisiana, Project Number: 064–EE065–WAH–NP–L8, LA48–S961–007; Morse Elderly Housing, Morse, Louisiana, Project Number: 064–EE066–WAH–NP–L8, LA48–S961–008; Westminister Woods, Bogalusa, Louisiana, Project Number: 064–EE073–WAH–NP–L8, LA48–S961–015; Mason de Tours, Kaplan, Louisiana, Project Number: 064–HDO35–WPD–NP–L8, LA48–Q961–001; Franciscan House, Monroe, Louisiana, Project Number: 064–HDO37–WPD–NP–L8 LA48–Q961–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 30, 1999.

Reasons Waived: HUD needed additional time to review the Firm Commitment Application and initial closing documents.

38. Regulation: 24 CFR 891.165.

Project/Activity: Freeman Apartments, Springfield, New Jersey, Project Number: 031–HDO66/NJ39–Q961–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 3, 1999.

Reasons Waived: The Firm submission was delayed because of the owner's search for additional funding as well as obtaining local approval for the drawings and specifications.

39. Regulation: 24 CFR 891.165.

Project/Activity: River View Gardens, New York, New York, Project Number: 012–EE195/NY36–S961–013.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the

duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 5, 1999.

Reasons Waived: Delays occurred when another developer had to be identified because the first developer was not able to secure financing.

40. Regulation: 24 CFR 891.165.

Project/Activity: John King Center, San Francisco, California, Project Number: 131–EE099/CA39S961012.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 5, 1999.

Reasons Waived: Delays were caused because of the project's complex design and the Owner's efforts to secure necessary secondary financing for the project.

41. Regulation: 24 CFR 891.165.

Project/Activity: Catholic Community Service, Elizabeth, New Jersey, Project Number: 031–EE037/NJ39–S951–006.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 10, 1999.

Reasons Waived: Additional time was required for HUD to close the project.

42. Regulation: 24 CFR 891.165.

Project/Activity: Lakeland Manor, Santa Fe Springs, California, Project Number: 122–HDO89–WPD–NP/CA16–Q961–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: May 13, 1999.

Reasons Waived: Delay was caused by a site change.

43. Regulation: 24 CFR 891.165.

Project/Activity: Sienna Springs II, Dayton, Ohio, Project Number: 046–EE034/OH10–Q961–001; Canaan Manor (aka William C. Thomas), Newark, Ohio, Project Number: 046–HDO18/OH10–Q961–001; Accessible Country Trail, Toledo, Ohio, Project Number: O42–HDO55/OH12–Q961–002; Glenpark Manor, Youngstown, Ohio, Project Number: 042–EE082/OH12–S961–009; Carey East (aka Open Arms), Cleveland, Ohio, Project Number: 042–HDO67/OH12–Q961–014; Ziegler Homes II(aka Living Stream), Toledo, Ohio, Project Number: 042–HDO58/OH12–961–005.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 25, 1999.

Reasons Waived: Sienna Springs II—Delays were caused by the Sponsor having to resolve some outstanding audit findings as well as obtaining approval of the site. Canaan Manor (aka William C. Thomas)—Sponsor experienced strong community opposition and was forced to seek an alternate site. Further delays were experienced when the presently optioned site required local government approval of a lot split and approval of the method to control water drainage on the site. Accessible Country Trail—Delays were caused by the Owner having to resolve unforeseen site and zoning concerns, which surfaced after the funding award. Glenpark Manor—Owner was unable to meet the cash shortfall in the Capital Advance. Delays were incurred in filing their application with the Ohio Department of Development for gap financing. Carey East (aka Open Arms)—Project experienced numerous delays due to a site change, zoning problems, noise concerns, change in development method, and also change in the general contractor. Ziegler Homes II (aka Living Stream)—Delays occurred as Owner resolved unforeseen zoning issues and deed restrictions, which came to light after the funding award and while waiting on evidence of 501(c)(3) ruling from the IRS.

44. Regulation: 24 CFR 891.165.

Project/Activity: Arc HUD III, Wilmington, Delaware, Project Number: 032–HDO17–WDD/DE26–Q961–003; Collegeville Community Living Arrangement, Collegeville Borough, Montgomery County, Pennsylvania; Lock Haven Court, Lock Haven, Clinton County, Pennsylvania, Project Number: 034–EE067–WAH/PA26–S962–002; Norris Square Apartments, Philadelphia, Pennsylvania, Project Number: 034–EE068–WAH/PA26–S061–011; Spring City Elderly Housing, Spring City, Chester County, Pennsylvania, Project Number: 0334–EE057–WAH/PA26–S961–002.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 25, 1999.

Reasons Waived: HUD needed time to complete the firm commitment processing review and approve the initial closing documents.

45. Regulation: 24 CFR 891.165.

Project/Activity: Southern New Hampshire Services, Inc., Antrim, New Hampshire, Project Number: 024–EE032–WAH/NH36–Q961–003.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 25, 1999.

Reasons Waived: HUD needed additional time to approve the firm commitment and initial closing documents.

46. Regulation: 24 CFR 891.165.

Project/Activity: Mental Health Association/North Carolina Haywood County Group Home, Waynesville, North Carolina, Project Number: 053–HD144/NC19–Q971–009.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C.

1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 25, 1999.

Reasons Waived: The Town of Waynesville denied a building permit for the Group Home. Although the permit was filed prior to the Town amending its zoning ordinance to prohibit group homes being located within one-half mile of each other, the Town refused to acknowledge the permit application's validity. Additional time was required for the Sponsor to pursue a lawsuit.

47. Regulation: 24 CFR 891.165.

Project/Activity: Waverly Residence, New York, New York, Project Number: 012–HD066/NY36–Q961–019.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 25, 1999.

Reasons Waived: Additional time was required for the Owner to review the impact of the amount of off-site roadway, which may affect the owner's financial requirements for closing. Additional time was also needed for HUD to review the impact on the previous processing.

48. Regulation: 24 CFR 891.165.

Project/Activity: Villa Esperanza, Gilroy, California, Project Number: 121–HDO53–WDD/CA29-Q961–007.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 27, 1999.

Reasons Waived: Delays were caused by the Co-sponsors trying to secure additional funding for the project.

49. Regulation: 24 CFR 891.165.

Project/Activity: Haledon Consumer Home, Haledon, New Jersey, Project Number: 031–HDO75/NJ39–Q961–015.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 2, 1999.

Reasons Waived: The closing was delayed because HUD's closing attorney experienced an unanticipated change in priorities and because of his heavy schedule of closings.

50. Regulation: 24 CFR 891.165.

Project/Activity: Covenant Place, Milwaukee, Wisconsin, Project Number: 075–EE045/WI39S961001.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 11, 1999.

Reasons Waived: HUD needed additional time to review the initial closing documents.

51. Regulation: 24 CFR 891.165.

Project/Activity: Roxbury Senior Housing, Roxbury, Connecticut, Project Number: 017–EE039/CT26–S971–008.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 18, 1999.

Reasons Waived: Delays were experienced because the Town of Roxbury had never had multifamily housing developed within the Town, and local approval proceeded slowly.

52. Regulation: 24 CFR 891.165.

Project/Activity: Rosevine Apartments, Berkeley, California, Project Number: 121–HDO50–NP–WDD/CA39–Q961–004.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 30, 1999.

Reasons Waived: Delays were experienced because the project owner needed to find another general contractor when the original contractor quit and because the owner had to find another funding source due to a shortfall.

For Items 53 Through 55, Waivers Granted For 24 CFR Part 891, Contact: Jerold Nachison, Eastern and Atlantic Servicing Branch, Office of Portfolio Management, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3730. Hearing-or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

53. Regulation: 24 CFR 891.205 and 410(c).

Project/Activity: The Kansas City Multifamily HUB requested an age waiver for Palestine Gardens North, Kansas City, Missouri, Project No: 084–EE019.

Nature of Requirement: 24 CFR 891.205 defines the term ''Elderly person'' as a household of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted by: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 13, 1999.

Reasons Waived: This waiver was granted because of the special circumstances of this case. The manager of the project erred during occupancy because he/she was not familiar with Section 202/PRAC occupancy standards, and permitted the ineligible elderly disabled tenant to occupy a unit. Project management must assist the tenant in locating another unit or provide moving expenses.

54. Regulation: 24 CFR 891.205 and 410(c).

Project/Activity: The Buffalo Multifamily Hub requested age and very-low income waivers for 1490 Estates, Buffalo, New York, Project Number: 014–EE005).

Nature of Requirement: 24 CFR 891.205 defines the term ''Elderly person'' as a household of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 13, 1999.

Reasons Waived: The waiver was granted to allow four disabled heads of households to remain based on the special circumstances of this case. Due to low occupancy of the project, project management has also requested an income waiver to allow low-income people to live in the project to maintain project viability.

55. Regulation: 24 CFR part 891.205, 410(c), 575, and 610.

Project/Activity: West Wynde Retirement Community, Moultonborough, New Hampshire, Project Number: 024–EE038. The Manchester Multifamily Program Center requested a waiver of the age requirement for current heads of households who are Low Income (LI) rather than Very Low Income (VLI) and/or ineligible because they are under the age of 62.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 10, 1999.

Reasons Waived: This waiver was granted because of the special circumstances of this case. The financial viability of the project was threatened by an apparent error in estimating market demand. Therefore, to ensure viability, the two current LI elderly households are needed to remain, and the project needs to be able to open occupancy to other LI elderly households.

For Item 56, Waiver Granted for 24 CFR Part 891, Contact: Frank W. Parker, Eastern and Atlantic Servicing Branch, Office of Portfolio Management, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3730. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

56. Regulation: 24 CFR 891.205 and 410(c).

Project/Activity: The Boston Multifamily HUB requested an age waiver for the Henderson School Apartments, Henderson, New York, Project Number: 013–EE033/NY–06–S921–011.

Nature of Requirement: 24 CFR 891.205 defines the term ''Elderly person'' as a household of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 30, 1999.

Reasons Waived: The waiver was granted because of sustained high vacancy rates and indications of a soft market for VLI families in the area. The admission income limits were requested to be changed from 50 percent of median income (VLI) to 80 percent of median (LI) to sustain occupancy and maintain project viability.

For Item 57, Waiver Granted for 24 CFR Part 891, Contact: Margaret Keels, Eastern and Atlantic Servicing Branch, Office of Portfolio Management Branch, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3730. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

57. Regulation: 24 CFR 891.575 and 610(c).

Project/Activity: Greenpointe Apartments, Greenville, North Carolina, Project Number: 053–EH653. The Greensboro Multifamily HUB requested an age waiver for the project.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons.

Granted By: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 13, 1999.

Reasons Waived: The waiver was granted in order to allow management of the project additional flexibility in attempting to rent-up vacant units and maintain project viability.

For Items 58 Through 60, Waivers for 24 CFR Parts 982 and 983, Contact: Gloria J. Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1380. Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

58. Regulation: 24 CFR 982.303(b)(1).

Project/Activity: Housing Authority of Alameda County, California, Section 8 Rental Certificate Program.

Nature of Requirement: 24 CFR 982.303(b)(1) provides for a maximum rental certificate/voucher term of 120 days, during which a certificate/voucher holder may seek housing to be leased under the program.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: April 16, 1999.

Reasons Waived: Approval of the waiver provided the certificate holder additional time to seek housing. The certificate holder experienced extreme difficulty in locating a suitable unit.

59. Regulation: 24 CFR 982.306(d).

Project/Activity: Palm Beach County Housing Authority, Florida, Section 8 Voucher Program.

Nature of Requirement: 24 CFR 982.306(d) limits the circumstances under which a landlord can lease a unit with tenant-based assistance to a relative of the landlord.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: May 24, 1999.

Reasons Waived: Approval of the waiver prevented further emotional hardship on the family and financial hardship on the landlord. The landlord contracted to build a residential unit with a separate accessory dwelling unit for the sole purpose of leasing the unit to a relative prior to the effective date of regulation.

60. Regulation: 24 CFR 983.7(c)(4).

Project/Activity: The San Francisco Housing Authority, California, requested a waiver to provide project-based voucher assistance for 50 units at Golden Gate Apartments, a Section 236 project.

Nature of Requirement: 24 CFR 983.7(c)(4) prohibits attachment of project-based assistance to a Section 236 project (insured or non-insured) or a unit subsidized with Section 236 rental assistance payments.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: May 5, 1999.

Reasons Waived: Approval of the waiver ensured that affordable housing is preserved in the City, where there has been a severe reduction in the number of affordable units for low-income families in the rental market.

For Items 61 Through 62, Waivers Granted For 24 CFR Part 990, Contact: Joan DeWitt, Director, Funding and Financial Management Division, Office of Public and Assisted Housing Operations, Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1872. Hearing- or speech-impaired persons may access this number via TTY by calling the

Federal Information Relay Service at (800) 877–8339.

61. Regulation: 24 CFR 990.107(f) and 990.109.

Project/Activity: Tuscaloosa, Alabama Housing Authority. A request was made to permit the Authority to benefit from energy performance contracting for developments that have tenant-paid utilities. The Authority estimates that it could increase savings substantially if it were able to undertake energy performance contracting for both PHA-paid and tenant-paid utilities.

Nature of Requirement: Under the Performance Funding System (PFS), energy conservation incentives that relate to energy performance contracting currently apply to only PHA-paid utilities. The Tuscaloosa Housing Authority has both PHA-paid and tenant-paid utilities.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: June 28, 1999.

Reasons Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the Authority to benefit from energy performance contracting for developments with tenant-paid utilities. The waiver was granted on the basis that the Authority had presented a sound and reasonable methodology for doing so. The Tuscaloosa Housing Authority requested a waiver based on the same approved methodology. The waiver permits the HA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (for the duration of implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

62. Regulation: 24 CFR 990.110(c)(2)(ii).

Project/Activity: Holyoke, Massachusetts Housing Authority requested a waiver of the PFS with regard to execution of an energy performance contract.

Nature of Requirement: 24 CFR 990.110(c)(2)(ii) specifically refers to savings from decreased consumption that must be waived to permit conversion from one utility source to another to qualify for the ''freeze of the rolling base'' energy incentive.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: April 9, 1999.

Reasons Waived: The Holyoke Housing Authority was granted a waiver to permit it to use the ''freeze of the rolling base'' methodology for a conversion from one energy source to another in an energy performance contract under the PFS energy cost incentives. Conversion from one utility source to another may result in significant cost avoidance, even though comprising a shift in consumption, rather than a reduction. The waiver permits the HA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (for the duration of implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

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Part IV

Department of Labor

Occupational Safety and Health Administration

Voluntary Protection Programs To Provide Safe and Healthful Working Conditions, Draft Revisions; Notice

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Draft Revisions to the Voluntary Protection Programs To Provide Safe and Healthful Working Conditions

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice, request for comments.

SUMMARY: The Occupational Safety and Health Administration would like to obtain stakeholder and public comments on proposed revisions to its Voluntary Protection Programs (VPP), published in Draft below. The revisions include several new criteria intended to make the VPP more challenging and to raise the level of safety and health achievement expected of participants. New eligibility categories allow previously ineligible worksites to apply. The criteria also have been rewritten to make them more easily understood and to bring the VPP's basic program elements into conformity with OSHA's Safety and Health Program Management Guidelines. OSHA will consider submitted comments when it develops the final version of these revisions.

DATES: Written comments must be submitted on or before November 26, 1999.

ADDRESSES: Send two copies of your comments to: Docket Office, Docket No. C–06, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210. Comments limited to 10 pages or less may also be transmitted by FAX to 202–693–1648, provided that the original and one copy of the comment are sent to the Docket Office immediately thereafter.

Comments may also be submitted electronically through OSHA's Web site at the following address: *http://www.osha-slc.gov/e-comments/e-comments-vpp.html.* Information such as studies and journal articles cannot be attached to electronic submissions and must be submitted in duplicate to the Docket Office. Such attachments must clearly identify the respondent's electronic submission by name, date, and subject, so that they can be attached to the correct submission.

The entire record for the proposed revisions to the Voluntary Protection Programs is available for inspection and copying in the Docket Office, Docket No. C–06, telephone 202–693–2350.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, Office of Public Affairs, Occupational Safety and Health Administration, Room N3647, 200 Constitution Ave., NW, Washington, DC 20210, (202) 693–1999.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Voluntary Protection Programs (VPP), adopted by OSHA in **Federal Register** Notice 47 FR 29025, July 2, 1982, have established the efficacy of cooperative action among government, industry, and labor to address worker safety and health issues and expand worker protection. VPP participation requirements center on comprehensive management systems with active employee involvement to prevent or control the safety and health hazards at the site. Employers who qualify generally view OSHA standards as a minimum level of safety and health performance and set their own more stringent standards where necessary for effective employee protection.

OSHA's experience with VPP and other programs led it to publish its voluntary ''Safety and Health Program Management Guidelines'' (the Guidelines) in the **Federal Register** on January 26, 1989, 54 FR 3904. The Guidelines present effective criteria for organizing a managed safety and health program. To maintain consistency in OSHA's approach to safety and health program management, the Agency has decided to reorganize the VPP criteria to conform more closely to the Guidelines.

This reorganization has been accomplished by merging the six elements of the VPP into the four elements of the Guidelines. Specifically, Management Commitment and Planning has become Management Leadership and Employee Involvement; Hazard Assessment has become Worksite Analysis; Hazard Correction and Control has become Hazard Prevention and Control; Safety and Health Program Evaluation has become part of Management Leadership and Employee Involvement; and Safety and Health Training continues as one of four basic program elements.

The VPP criteria also have been rewritten to make them more easily understood. This has involved changes in both language and organization. However, except for a variety of minor clarifications, the substance of the criteria has changed little. The two most notable changes are an expansion of eligibility to certain classes of worksites previously not covered by the program, and a new illness rates reporting requirement. The latter means OSHA will consider a worksite's illness performance as well as its injury performance when assessing the site's level of achievement.

B. Statutory Framework

The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.* (the Act and the OSH Act), was enacted ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources. * * *''

Section 2(b) specifies the measures by which the Congress would have OSHA carry out these purposes. They include the following provisions which establish the legislative mandate for the Voluntary Protection Programs:

''* * * (1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safer and healthful working conditions;''

''* * * (4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;''

''* * * (5) * * * by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;''

''* * * (13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.''

II. Program Changes and Rationale

A. Language and Organization

With this Notice OSHA proposes extensive editorial changes in the language and organization of The Voluntary Protection Programs, published as Draft below. The intent is to make the VPP criteria more understandable.

B. Changes in Eligibility

1. Draft Section D.1., General, provides that Federal agency worksites subject to 29 CFR part 1960 are now eligible to apply. OSHA wants to extend recognition for safety and health program excellence to federal sector worksites. As a result of a successful Demonstration Program, this section now also provides that resident contractors at participating VPP sites may make application to the VPP for their operations at those sites. The Demonstration Program established that at existing VPP sites, resident contractors can provide effective safety and health protection to their employees even though they do not control the worksite.

2. Draft Section D.2, Unionized Sites, is changed to clarify the degree of union involvement that triggers the requirement for union concurrence in

VPP participation. The old language, ''a significant portion of its employees organized by one or more collective bargaining units,'' was open to wide interpretation. The new language makes clear that the concurrence of all unions is expected at any worksite where one or more collective bargaining agents represent employees.

C. Changes in Assurances

1. Draft Section E.1. requires VPP applicants to submit assurance that they will correct all hazards addressed by OSHA's safety and health standards and regulations and the OSH Act's ''general duty clause,'' Section 5(a)(1). Full compliance with OSHA's requirements has always been a requirement of the VPP but is now made an explicit part of the Assurances.

2. Draft Section E.2. requires the applicant to provide assurance that site employees support the VPP application. At unionized sites, this is accomplished by the authorized collective bargaining representative(s) either signing the VPP application or submitting a signed statement of support. OSHA also needs assurance that employees at non-unionized sites support VPP participation.

3. Draft Section E.5. expands on previous language and now requires that applicants certify to OSHA that hazards discovered through any means will be corrected in a timely manner, with interim protection provided as necessary. This section further provides that site deficiencies related to compliance with OSHA requirements and identified during the OSHA preapproval onsite review will be corrected within 90 days. This expansion is needed to make clear to applicants that elimination or control is expected of all identified hazards, and not just hazards identified by the means listed in the Notice.

4. Draft Section E.10. expands the information that participating sites must submit to OSHA each year by February 15.

a. Requiring sites to report injury and illness rates, rather than just injury rates, will help ensure that VPP continues to set the standard for excellence by recognizing worksites that effectively address the full range of workplace safety and health problems.

b. OSHA needs to have participants report the injury/illness and lost work day case numbers as well as the rates to ensure that the rates have been calculated correctly.

c. OSHA needs to examine the participant's annual evaluation of its safety and health program in order to determine if the site's program is continually improving and also to spot potential program deficiencies.

d. Because examination of contractors' rates is now part of the VPP requirements, the injury/illness and lost workday case numbers and rates of prominent (500 hours or more onsite in a calendar quarter) contractors' site employees need to be submitted annually to OSHA, just as the rates for regular site employees must be submitted annually.

e. To better understand a worksite's safety and health efforts, to help spread the lessons learned in VPP to other worksites, and to communicate the value of VPP, OSHA needs information on success stories and VPP outreach efforts at each participating worksite.

D. Changes in The Star Program

1. The Purpose of the Star Program, Draft Section F.1., is expanded to indicate that OSHA expects Star participants to share their safety and health expertise and to encourage others to work toward comparable success.

2. Injury/Illness Performance, Draft Section F.4., includes the following changes:

a. Star performance criteria have changed by adding:

(1) The use of injury/illness rates to determine VPP eligibility;

(2) A requirement that rates be below rather than at or below the industry average; and

(3) An alternative method of calculating injury/illness incidence rates for qualifying small worksites.

The addition of illnesses and the change in minimum rates requirements will make these requirements more reflective of the health aspects of a safety and health program and generally more stringent. These changes will help ensure that VPP continues to serve as a model of excellence for the larger work community. The alternative calculation method will help small sites to qualify for Star even when they have experienced 1 year of abnormally high rates.

b. Calculating, collecting, and submitting contractor rates are new VPP requirements that will enable OSHA to better determine the quality of safety and health protection afforded to all employees on a worksite. The requirements for contract employee coverage appear at Draft Section F.4.a.(2).

3. Safety and Health Program Qualifications for the Star Program, Draft Section F.5., is revised as follows:

a. OSHA has condensed from six elements to four elements the Safety and Health Program Qualifications for the Star Program. This is done so that the VPP requirements will conform with OSHA's Voluntary Safety and Health Program Management Guidelines. Similarly, the names of the activities required under each element have been changed, as appropriate. The changes are:

(1) In Draft Section F.5.a., the name of the first element has changed from Management Commitment and Planning to Management Leadership and Employee Involvement. The activity Employee Participation has changed to Employee Involvement. This activity and the activity Safety and Health Program Evaluation are now made part of this element.

(2) In Draft Section F.5.b., the name of the second element has changed from Hazard Assessment to Worksite Analysis.

(3). In Draft Section F.5.c., the name of the third element has changed from Hazard Correction and Control to Hazard Prevention and Control.

b. The following revisions are made in Draft Section F.5.a., Management Leadership and Employee Involvement:

(1) Commitment to Safety and Health Protection now includes the requirement for an established and communicated goal for the safety and health program and results-oriented objectives for meeting that goal, an activity that is included in the Guidelines.

(2) Written Safety and Health Program has changed slightly to reflect the merging of the original six basic elements into four.

(3) Management Involvement is now Management Leadership. OSHA has added two new required activities to Management Leadership so that the list of actions will reflect the Guidelines. These additional activities are:

(a) Creating employee access to top management, and

(b) Ensuring that all workers at the site, including contract workers, are provided equally high-quality safety and health protection.

(4) New language on defining responsibility, assigning authority, and affording adequate resources is intended to emphasize the need for these management actions.

(5) Holding managers, supervisors, and employees accountable (line accountability) is tied more clearly to meeting responsibilities. OSHA no longer differentiates between managing accountability at general industry and construction worksites, because in the Agency's experience effective management does not differ significantly at different types of worksites.

(6) Employee Involvement includes an additional requirement that worksites must establish at least three different active and meaningful ways for employee involvement. This requirement is intended to ensure that employee involvement is an integral part of the safety and health program. Also, worksites that choose to meet this requirement by establishing safety and health committees are cautioned to ensure such committees are established in a manner consistent with applicable law.

(7) OSHA has substantially rewritten the section Contract Worker Coverage and expanded the requirements for contract workers to include:

(a) Documentation that contractors maintain effective safety and health programs, and

(b) Documentation that participants maintain effective oversight of their onsite contractors.

(c) Documentation of the participant's plan for working with a contractor whose rates are above its industry average, in order to reduce those rates to below average within 2 years.

This brings contractor requirements in line with current VPP practice.

(8) OSHA has rewritten Safety and Health Program Evaluation in order to make the requirements more understandable and participants' evaluations more effective. The section now clearly states that all elements of the program must be evaluated. Third parties who may be employed to conduct the evaluation must have appropriate training and/or experience. Also, this section provides that construction companies must submit a final evaluation immediately prior to completion of construction. Construction companies that fail to submit this evaluation will not be allowed to submit VPP applications for other sites. To emphasize the importance OSHA places on outreach activities, OSHA now requires participants to report outreach efforts when they submit their annual evaluation report.

c. In addition to revisions that create a more logical flow, Draft Section F.5.b., Worksite Analysis, contains the following changes:

(1) The requirement for comprehensive safety and health surveys is expanded to clarify and strengthen industrial hygiene requirements.

(2) OSHA has added a new requirement to analyze injury and illness trends, intended to ensure that complete worksite analysis is being performed.

(3) The Medical Program is renamed the Occupational Health Care Program to better reflect its nature, and requirements are expanded and moved to Draft Section F.5.c., Hazard Prevention and Control, to better reflect the function of an occupational health care program.

d. OSHA has made the following revisions in Draft Section F.5.c., Hazard Prevention and Control:

(1) In order to complete the list of means for eliminating or controlling hazards, OSHA has added administrative controls. The four control methods are listed in their preferred order.

(2) Work Practice controls, Draft Section F.5.c.(1)(c), is expanded to incorporate the requirement that the rules must be understood and followed; must be incorporated in training, positive reinforcement, and correction programs; and must be equitably enforced through disciplinary rules.

(3) Monitoring and Maintenance, Draft Section F.5.c.(3), includes the additional requirement to document this system.

(4) The Occupational Health Care Program (formerly the Medical Program), Draft Section F.5.c.(4), is expanded to include the concept of using occupational health care professionals in hazard analysis and prevention. The expansion addresses the need to involve occupational health professionals in a site's program.

(5) Emergency Procedures, Draft Section F.5.c.(5), now requires that the written procedures must include provision for emergency training drills for all shifts. With this change, a participant's written procedures will reflect a requirement to conduct annual practice drills that has been in effect for some time. Requiring drills for all shifts will help ensure protection for all employees.

e. Safety and Health Training, Draft Section F.5.d., now specifies that training must ensure that managers understand and are able to carry out their safety and health responsibilities.

E. Changes in The Demonstration Program

Draft Section G.3. now provides for Demonstration Program evaluations every 12 to 18 months instead of every 12 months.

F. Changes in The Merit Program

1. Qualifications for Merit, Draft Section H.2., contains the following changes:

a. The addition of illnesses to the rates requirements. Previously, only injury rates were considered.

b. A restriction on participation by sites with above average rates. Such sites must have a plan to achieve Star rates requirements within 2 years, it must be statistically possible to achieve this goal, and the site's safety and health program must be at Star quality within 3 years.

c. The addition of a requirement to report contractor rates.

d. In the Merit Program for the construction industry, OSHA must approve the designated geographical area from which company injury/illness and lost workday incidence data are obtained.

These changes are designed to ensure that VPP participants are of the highest caliber and that sites approved to Merit can realistically achieve Star in a reasonable time period.

2. Term of Participation, Draft Section H.3., establishes a 3-year time limit for a term in the Merit Program. It also explains the circumstances that may lead OSHA to approve a second term of participation.

3. Multi-Site Eligibility, Draft Section H.4., is a new section that announces OSHA's expectation that companies with large numbers of applicants may be responsible for bringing their worksites up to Star quality before making application.

G. Changes in Application for VPP

1. Submission, Draft Section I.3., now requires applicants to submit to the appropriate OSHA office the requested number of application copies. This procedure is intended to expedite processing.

2. Acceptance of Application, Draft Section I.4., now permits OSHA to return as unacceptable an incomplete application if 90 days have passed since OSHA requested additional information and the applicant has not responded. This provision eases both OSHA's and the applicant's burden by establishing clear time frames for accepting complete applications.

H. Changes in Pre-Approval Onsite Review

1. Purpose, Draft Section J.1., clarifies the VPP onsite review team's non-enforcement nature.

2. Preparation, Draft Section J.2., is changed to emphasize the importance of the VPP review team's having a back-up team leader whenever possible.

3. Duration, Draft Section J.3., now reflects the reality that, on average, 4 days onsite are needed for a review.

4. Scope, Draft Section J.4., is expanded because the onsite review must reflect the added VPP criteria

proposed in this **Federal Register** Notice.

a. Document review must include the site contractor employees' OSHA Form 200 log, baseline safety and industrial hygiene surveys, annual safety and health program evaluations and audits, preventive maintenance program documentation, accountability documentation, and contractor safety and health programs.

b. Employee interviews must include interviews with contract workers.

I. Changes in Recommendation for Program Denial

Draft Section L.1. is expanded to define a reasonable time for the applicant to withdraw its application as ''not to exceed 30 calendar days.''

J. Changes in Inspection Provisions

1. Programmed Inspections, Draft Section M.1., now explains OSHA's rationale for removing a VPP participant from programmed inspection lists. It also provides that a VPP applicant will be removed from OSHA's programmed inspection lists no more than 75 calendar days prior to the commencement of the scheduled pre-approval onsite review. The need for this time limit stems from occasional delays in application processing, *i.e.,* the time from application submission to scheduled onsite review. These delays, in turn, are due to the growth of interest in VPP and increasing numbers of applications. The section also provides that VPP worksites may choose to remain on the programmed inspection lists.

2. Workplace complaints, fatalities and catastrophes, and other significant events have been grouped together in Draft Section M.2., because all of these events mandate normal OSHA enforcement procedures.

3. The intent of Draft Section M.3. is to ensure that participants understand they are subject to investigation by VPP personnel when other significant accidents and events occur at their worksites, whether or not normal enforcement procedures apply to the situation and whether or not injuries occur. OSHA may decide that investigation is necessary to determine if a serious deficiency exists in the safety and health program.

K. Changes in Post-Approval Contact/ Assistance

Draft Section N. is changed to clarify the continuing participation steps a Star Program participant must take if the participant's 3-year rate(s) move above the industry average.

L. Changes in Periodic Onsite Evaluation of Approved Worksites

1. Frequency of Star Program evaluation, Draft Section O.1.b, is changed to reflect Star evaluation periods of 30 to 60 months.

2. Scope of Star Program evaluation, Draft Section O.1.c., is expanded to include evaluation of the newly required contractor rates. To ensure fairness, the section also includes a timetable for phasing in the new data reporting requirements.

3. Measures of Effectiveness, Draft Section O.1.d., adds continuous improvement in the safety and health program to the measures of effectiveness. This section now more accurately reflects what has always been expected of participants.

4. Evaluation Decisions and Recommendations, Draft Sections O.1.e. and O.3.e, authorize the Regional Administrator to make the decision to continue a participant in the Star or Merit program. The sections also clarify the recommendations that a team may make after conducting an evaluation.

5. Frequency of Demonstration Program evaluation, Draft Section O.2.b., now gives the Agency greater scheduling flexibility by requiring evaluations every 12 to 18 months instead of every 12 months.

6. Frequency of Merit Program evaluation, Draft Section O.3.b., changes the scheduling of Merit evaluations. OSHA and the participant will agree on a schedule, with the first evaluation occurring within 24 months (and preferably 18 months) after approval. This scheduling will give OSHA greater flexibility in using its resources when conducting Merit evaluations.

M. Changes in Termination or Withdrawal

1. Reasons for Termination, Draft Section P.1.i., allows OSHA to terminate a VPP worksite where evidence is presented that the trust and cooperation among labor, management, and OSHA, upon which approval was based, no longer exist. Recent experience has demonstrated a need for this flexibility.

2. Termination Notification and Appeal or Withdrawal, Draft Section P.2., establishes the site's right to submit a written appeal of OSHA's decision to terminate.

3. Reapplication Following Termination, Draft Section P.4., requires a terminated site to wait 3 years before reapplying to the VPP. This requirement clarifies that reapplication will be considered only after the worksite has had sufficient time to reestablish an effective safety and health program.

Draft: The Voluntary Protection Programs

A. Purpose of the Voluntary Protection Programs

OSHA has long recognized that a multifaceted approach is the best way to accomplish all the goals of the Act. Compliance with occupational safety and health standards, OSHA regulations, and the general duty clause—all the requirements of the Act—is essential. Rulemaking and enforcement alone, however, cannot replace the understanding of work processes, materials, and hazards that comes with employers' and employees' daily on-the-job experience and commitment to workplace safety and health. This knowledge, combined with an ability to evaluate and address hazards rapidly, enables employers and employees to take responsibility for their own safety and health in ways not available to OSHA. Further, OSHA's substantial experience with site-based safety and health programs has shown the value of a comprehensive, systematic approach to worker protection. It is OSHA's policy, therefore, to promote safety and health programs tailored to the needs of particular worksites.

The purpose of the Voluntary Protection Programs (VPP) is to emphasize the importance of, encourage the improvement of, and recognize excellence in employer-provided, employee-participative, and generally site-specific occupational safety and health programs. These programs are comprised of management systems for preventing or controlling occupational hazards. Sites employing these systems not only are working to remain compliant with OSHA's rules, but also are striving to excel by using flexible and creative strategies that go beyond the requirements to provide the best feasible protection for their workers. In the process, these worksites serve as models for effective safety and health programs in their industries while reducing employee injuries and illnesses well below industry averages. Moreover, the demonstrated workers' compensation cost reductions, reduced employee turnover, quality improvements, and other benefits to which VPP worksites testify are helping to convince skeptics that productivity, quality, profitability, and safety are complementary goals.

VPP participants enter into a new relationship with OSHA. In this innovative public/private partnership, cooperation and trust nourish improvements in safety and health, not just at VPP sites, but also beyond the

worksite boundaries. VPP companies have frequent opportunity to provide the Agency with input on safety and health matters. At the same time, the recognition and status gained by their participation in VPP, and their commitment to improving their industries and communities, enable them to accomplish a broad range of safety and health objectives. VPP participants mentor other worksites interested in improving their safety and health programs; conduct safety and health training and outreach seminars; and hold safety and health conferences that focus on leading-edge safety and health issues. VPP participants also participate with OSHA on VPP onsite reviews. This unique program gives private and public sector safety and health professionals the opportunity to exchange ideas, gain new perspectives, and grow professionally.

Worksites in the VPP are removed from programmed inspection lists for the duration of their participation, unless they choose to remain on the lists. This helps OSHA to focus its inspection resources on establishments that are less likely to meet the requirements of the OSH Act. However, OSHA continues to investigate valid employee safety and health complaints, fatalities and catastrophes, and other significant events at VPP sites according to established Agency procedures.

Participation in any of the programs does not diminish existing employer and employee responsibilities and rights under the Act. In particular, OSHA does not intend to increase the liability of any party at an approved VPP site. Employees or any representatives of employees taking part in an OSHA-approved VPP safety and health program do not assume the employer's statutory or common law responsibilities for providing safe and healthful workplaces; nor are employees or their representatives expected to guarantee a safe and healthful work environment.

The programs included in the VPP are voluntary in the sense that no employer is required to participate. Compliance with OSHA's requirements and applicable laws remains mandatory. Initial achievement and then continuing maintenance of the VPP requirements are conditions of participation.

The Assistant Secretary for Occupational Safety and Health determines approval for initial participation in the VPP, advancement to the Star Program, all participation in Demonstration Programs, and termination from the VPP. The OSHA Regional Administrator who has jurisdiction over a participant determines approval for continuation in the Star (including 1-year Conditional Star participation) and Merit Programs.

B. Purpose of This Notice

This notice describes the criteria for admission to the Voluntary Protection Programs (VPP); the conditions of participation, termination, or withdrawal; and the means of reinstatement.

C. Program Description

1. General

The VPP emphasize the importance of comprehensive worksite safety and health programs—safety and health management systems—in meeting the goal of the Act ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources. * * *'' This emphasis is demonstrated through assistance to employers in their efforts to reach the VPP level of excellence; through cooperation among government, labor, and management to resolve safety and health problems; and through official recognition of excellent safety and health programs. VPP sites are expected to effectively protect their workers from the hazards of the workplace through their safety and health programs. They do this by meeting established, rigorous safety and health program management criteria.

The VPP consist of three programs: Star, Demonstration, and Merit. The Star Program recognizes worksites that are self-sufficient in their ability to control hazards at the worksite. The Demonstration Program recognizes worksites that have Star quality safety and health programs but require demonstration and/or testing of experimental approaches that differ from current Star requirements. The Merit Program recognizes worksites that have good safety and health programs but must take additional steps to reach Star quality.

2. Recognition

When OSHA approves an applicant for participation in the VPP, the Agency recognizes that the applicant is providing, at a minimum, the basic elements of ongoing, systematic protection of workers at the site in accordance with rigorous VPP criteria. This protection makes general schedule inspections unnecessary. Therefore, the site is removed from OSHA's programmed inspection lists (unless the participant chooses not to be removed). The VPP symbols of recognition are certificates and plaques of approval and flags identifying the program in which the site participates. The participant also may choose to use program logos on such items as letterhead, shirts, and mugs.

3. Cooperative Relationship

VPP participants work cooperatively with the Agency, both in the resolution of safety and health problems and in the promotion of effective safety and health programs. This cooperation takes such forms as presentations before meetings of labor, industry, and government groups; input in OSHA rulemaking; and participation in activities including OSHA Volunteers, mentoring, outreach, and training. OSHA designates a contact person, usually the Regional VPP Manager, who coordinates each approved site's contact with the Agency.

D. Eligibility

1. General

The VPP accepts applications from private sector general industry, maritime, and construction worksites, and from federal agency worksites subject to 29 CFR part 1960, that have implemented a safety and health program. VPP accepts applications from owners and site managers (such as a construction site's general contractor or construction manager) who control site operations and have ultimate responsibility for assuring safe and healthful working conditions at the site. VPP also accepts applications from resident contractors at participating VPP sites for the contractors' operations at those VPP sites. Site management submits the application, but it must reflect the support of site employees and, where applicable, their collective bargaining representatives.

2. Unionized Sites

At sites with employees organized into one or more collective bargaining units, the authorized representative for each collective bargaining unit must either sign the application or submit a signed statement indicating that the collective bargaining agent(s) support VPP participation. Without such concurrence from all such authorized agents, OSHA will not accept the application.

3. OSHA History

If an applicant has been inspected by OSHA within the 36-month period preceding application, the inspection, abatement, and/or any other history of interaction with OSHA must indicate good faith attempts to improve safety and health. An applicant's history must include no open investigations and no pending or open contested citations at

the time of application, and no affirmed willful violations during those prior 36 months.

E. Assurances

Applications for the Star, Demonstration, and Merit Programs must be accompanied by certain assurances describing what the applicant agrees to do if the application is approved. The applicant must assure that:

1. The applicant will correct in a timely manner all hazards addressed by OSHA's safety and health standards and regulations and by Section 5(a)(1) of the Act.

2. Site employees support the VPP application.

3. VPP elements are in place, and the requirements of the elements will be met and maintained.

4. Employees, including newly hired employees and contract employees when they reach the site, will have the VPP explained to them, including employee rights under the program and under the Act.

5. Hazards discovered through employee notification, self-inspections, an OSHA onsite review, accident investigations, process hazard reviews, annual evaluations, or any other means of report, investigation, or analysis will be corrected in a timely manner, with effective interim protection provided as necessary. Site deficiencies related to compliance with OSHA requirements and identified during the OSHA preapproval onsite review will be corrected within 90 days.

6. Employees given safety and health duties as part of the applicant's safety and health program will be protected from discriminatory actions resulting from their carrying out such duties, just as section 11(c) of the Act protects employees who exercise their rights under the Act.

7. Employees will have access to the results of self-inspections, accident investigations, and other safety and health program data upon request. At unionized construction sites, this requirement may be met through employee representative access to these results.

8. The information listed below will be maintained and available for OSHA review to determine initial and continued approval to the VPP:

a. Written safety and health program;

b. All documentation enumerated under Section J.4. of this notice; and

c. Any agreements between management and the collective bargaining agent(s) concerning safety and health.

9. Any data necessary to evaluate the achievement of individual Merit or One-Year Conditional goals not listed above will be made available to OSHA for evaluation purposes.

10. Each year by February 15, each participating site will send to its designated OSHA VPP Manager (described in Section N.1.) the site's injury/illness incidence and lost/restricted workday case numbers and rates, hours worked, and estimated average employment for the past full calendar year; a copy of the most recent annual evaluation of the site's safety and health program; a description of worksite outreach activities; and any success stories, *e.g.*, reductions in workers' compensation rates, increases in employee involvement in the program, etc.

In addition, each participating general industry or maritime site will send to the designated OSHA VPP Manager the site's injury/illness incidence and lost/restricted workday case numbers and rates, hours worked, and estimated average employment for the past full calendar year for each applicable contractor's employees who worked 500 or more hours in any calendar quarter at the site and who are covered under Section F.4.a.(2).

11. Whenever significant organizational or ownership changes occur, the site shall provide OSHA a new Statement of Commitment signed by both management and any authorized collective bargaining agents.

12. Whenever a change occurs in the authorized collective bargaining agent, a new signed statement shall be provided indicating that the new representative supports VPP participation.

F. The Star Program

1. Purpose

The Star Program recognizes leaders in occupational safety and health who are successfully protecting workers from death, injury, and illness by implementing comprehensive and effective safety and health programs. Star participants willingly share their experience and expertise, and they encourage others to work toward comparable success.

2. Term of Participation

The term for participation in an approved Star Program is open-ended so long as the participating site:

a. Continues to maintain its excellent safety and health program as evidenced by favorable evaluation by OSHA every 30 to 60 months; and

b. Submits the annual information required, *e.g.*, annual rates data and program evaluation (see Section E.8.).

Note: In the construction industry, participation ends with the completion of construction work at the site.

3. Experience

All safety and health program elements needed for program success, as delineated in F.5. below, must be operating for a period of not less than 12 months before Star approval.

4. Injury/Illness Performance

a. The general industry or maritime applicant at the time of approval must meet the following criteria:

(1) For site employees—Both the 3-year injury and illness incidence rates and the lost/restricted workday injury and illness case rates for the most recent 3 calendar years must be below the most recent specific industry (at the three-or four-digit level) national averages published by BLS.

Some applicants, usually smaller worksites with limited numbers of employees and/or hours worked, may use an alternative method for calculating incidence rates. The alternative method allows the employer to use the best 3 out of the most recent 4 years' injury and illness experience.

(a) To determine whether the employer qualifies for the alternative calculation method, do the following:

- Using the most recent employment statistics (hours worked in the most recent calendar year), calculate a hypothetical rate for the employer assuming that the employer had two cases during the year;
- Compare that hypothetical rate to the most recently published BLS rate for the industry; and
- If the hypothetical rate (based on two cases) gives the firm a rate equal to or higher than the national average for its industry, the following alternative calculation method can be used. (If not, it cannot be used.)

(b) If the employer qualifies for the alternative calculation method, the best 3 of the last 4 calendar years shall be used to calculate the 3-year rates for the employer.

(2) For contract employees—The injury and illness and lost/restricted workday injury and illness case rates (called the site contractor's employee rates) for the most recent calendar year for each applicable contractor's employees assigned to site also should be below the most recent specific industry national averages published by BLS.

(a) Applicable contractors are those employers who have contracted with the site to perform certain jobs and whose employees worked a total of 500 or more hours in at least 1 calendar quarter at the worksite.

(b) The industry averages used shall be determined by the Standard Industrial Classification (SIC) Code at the three-or four-digit level for each type of work performed.

(c) At worksites where an applicable contractor's site rates may be above the national average for the work being performed, the site must describe the steps it is taking to ensure the contractor's site employees are provided effective protection. The site also must describe how it is working with the contractor to develop a plan to reduce those rates within 2 years to below the industry average for the work being performed.

b. The construction applicant, at the time of approval, must meet the following criteria:

(1) The site for which VPP application is being made must have been in operation for at least 12 months.

(2) The applicant's combined injury and illness incidence rate and lost/restricted workday injury and illness case rate from site inception until time of application must include all workers of all subcontractors and must be below the national average for the type of construction at the site according to the most precise SIC code. The site's SIC code is determined by the type of construction project, not individual trades.

c. Federal agency applicants shall follow the same requirements as general industry and maritime (see a. above), except that 3-year rates may be calculated by fiscal year instead of calendar year.

5. Safety and Health Program Qualifications for the Star Program

a. Management Leadership and Employee Involvement. Each applicant must be able to demonstrate top-level management leadership in the site's safety and health program. Management systems for comprehensive planning must address protection of worker safety and health. Employees must be meaningfully involved in the safety and health program.

(1) Commitment to Safety and Health Protection. Authority and responsibility for employee safety and health must be integrated with the overall management system of the organization and must involve employees. This commitment includes:

(a) Policy. Clearly established policies for worker safety and health protection that have been communicated to and understood by employees; and

(b) Goal and Objectives. Established and communicated goal(s) for the safety and health program and results-oriented objectives for meeting that goal, so that all members of the organization understand the results desired and the measures planned for achieving them, especially those factors that are applicable directly to them.

(2) Commitment to VPP Participation. Management must also clearly demonstrate commitment to meeting and maintaining the requirements of the VPP.

(3) Planning. Planning for safety and health must be a part of the overall management planning process. In construction, this includes pre-job planning and preparation for different phases of construction as the project progresses.

(4) Written Safety and Health Program. All critical elements of a basic systems management safety and health program must be part of the written program. These critical elements are management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training. All aspects of the safety and health program must be appropriate to the size of the worksite and the type of industry. Some formal requirements, such as certain written procedures or documentation, may be waived for small businesses where the effectiveness of the systems has been evaluated and verified. Waivers will be decided on a case-by-case basis.

(5) Management Leadership. Managers must provide visible leadership in implementing the program. This must include:

(a) Establishing clear lines of communication with employees;

(b) Setting an example of safe and healthful behavior;

(c) Creating an environment that allows for reasonable employee access to top site management;

(d) Ensuring that all workers at the site, including contract workers, are provided equally high quality safety and health protection;

(e) Clearly defining responsibility in writing, with no unassigned areas. Each employee, at any level, must be able to describe his/her responsibility for safety and health;

(f) Assigning commensurate authority to those who have responsibility;

(g) Affording adequate resources to those who have responsibility and authority. This includes such resources as time, training, personnel, equipment, budget, and access to expert information, including appropriate use of certified industrial hygienists (CIH) and certified safety professionals (CSP) as needed, based on the risks at the site; and

(h) Holding managers, supervisors, and non-supervisory employees accountable for meeting their responsibilities, so that essential tasks will be performed. In addition to clearly defining and implementing authority and responsibility for safety and health protection, management leadership entails evaluating managers and supervisors annually, and operating a documented system for reinforcing good and correcting deficient performance.

(6) Employee Involvement. The site culture must enable and encourage employee involvement in the planning and operation of the safety and health program and in decisions that affect employees' safety and health. The requirement for employee participation may be met in a variety of ways, as long as employees have at least three active and meaningful ways to participate in safety and health problem identification and resolution. This involvement must be in addition to the individual right to notify appropriate managers of hazardous conditions and practices and to have issues addressed. Examples of acceptable employee involvement include but are not limited to the following:

(a) Participating in ad hoc safety and health problem-solving groups,

(b) Participating in audits and/or worksite inspections,

(c) Participating in accident and incident investigations,

(d) Developing and/or participating in employee improvement suggestion programs,

(e) Training other employees in safety and health,

(f) Analyzing job/process hazards,

(g) Acting as safety observers,

(h) Serving on safety and health committees constituted in conformance to the National Labor Relations Act.

(7) Contract Worker Coverage. All contractors and subcontractors, whether in general industry, construction, or maritime, are required to follow worksite safety and health rules and procedures applicable to their activities while at the site.

(a) Essentially, participants are expected to require of their contractor(s) what OSHA requires of them, an effective safety and health program management system in place with injury and illness rates for site contractor employees below the averages for their industries.

(b) Participants must demonstrate that they have considered the safety and health programs and/or performance history of all contractors during the evaluation and selection of these contractors.

(c) Participants must document that all contractors and subcontractors operating routinely at the site maintain effective safety and health programs and

comply with applicable safety and health rules and regulations.

- Such documentation must describe the authority for the oversight, coordination, and enforcement of those programs by the applicant, and there must be documentary evidence of the exercise of this authority at the site.
- Such documentation must describe the means for prompt elimination or control of hazards, however detected, by the applicant in the event that contractors or individuals fail to correct or control such hazards.
- Such documentation must describe how the contractor submits the injury/illness incidence and lost/restricted workday data as described in F.4.a.(2) and how, if the applicable contractor's employee rates are above the BLS averages for their industries, the participant will work with the contractor to ensure that these rates will be reduced to below average within 2 years.
- Such documentation must describe the penalties, including contractor correction and/or dismissal from the worksite, for willful or repeated non-compliance by contractors, subcontractors, or individuals.

(8) Safety and Health Program Evaluation. The applicant must have a system for annually evaluating the operation of the safety and health program. This system will judge success in meeting the program's goal and objectives, and will assist those responsible to determine and implement changes for continually improving worker safety and health protection.

(a) The system must provide for an annual written narrative report with recommendations for timely improvements, assignment of responsibility for those improvements, and documentation of timely follow-up action or the reason no action was taken.

(b) The evaluation must assess the effectiveness of all elements described in F.5. and any other elements of the site's safety and health program.

(c) When a participant submits its annual evaluation report to OSHA, the site must also provide a report describing its outreach activities, including efforts such as mentoring other worksites, making presentations at meetings and conferences, providing input into OSHA's rulemaking, and generally helping OSHA to carry out its mission.

(d) The evaluation may be conducted by competent corporate or site personnel or by competent private sector third parties who are trained and/or experienced in performing such evaluations. The evaluation should follow any format recommended by OSHA.

(e) In construction, the evaluation must be conducted annually and immediately prior to completion of construction. The final evaluation is to determine what has been learned about safety and health activities that can be used to improve the contractor's safety and health program at other sites. If a construction company does not provide this final evaluation, OSHA will not consider subsequent VPP applications for other sites operated by that company.

b. Worksite Analysis. Management of safety and health programs must begin with a thorough understanding of all hazardous situations to which employees may be exposed and the ability to recognize and correct all hazards as they arise. This requires:

(1) Procedures to ensure analysis of all newly acquired or altered facilities, processes, materials, equipment, and/or phases before use begins, to identify hazards and the means for their prevention or control.

(2) Comprehensive safety and health surveys, at intervals appropriate for the nature of workplace operations, which include:

(a) Identification of safety hazards accomplished by an initial comprehensive baseline survey and then subsequent surveys as needed;

(b) Identification of health hazards and employee exposure levels accomplished through an industrial hygiene sampling rationale and strategy. Sampling rationale should be based on data including reviews of work processes, material safety data sheets, employee complaints, exposure incidents, medical records, and previous monitoring results. The sampling strategy should include baseline and subsequent surveys that assess employees' exposure through screening and full shift sampling when necessary; and

(c) The use of nationally recognized procedures for all sampling, testing, and analysis with written records of results.

(3) Routine examination and analysis of safety and health hazards associated with individual jobs, processes, or phases and inclusion of the results in training and hazard control programs. This may include job hazard analysis and/or process hazard review. In construction, the emphasis must be on special safety and health hazards of each craft and each phase of work.

(4) A system for conducting, as appropriate, routine self-inspections that follows written procedures or guidance and that results in written reports of findings and tracking of hazard elimination or control to completion.

(a) In general industry and maritime, these inspections must occur no less frequently than monthly and must cover the whole worksite at least quarterly;

(b) In construction, these inspections must cover the entire worksite at least weekly.

(5) A reliable system for employees, without fear of reprisal, to notify appropriate management personnel in writing about conditions that appear hazardous and to receive timely and appropriate responses. The system must include tracking of responses and tracking of hazard elimination or control to completion.

(6) An accident/incident investigation system that includes written procedures or guidance, with written reports of findings and hazard elimination or control tracking to completion. Investigations are expected to seek out root causes of the accident or event and to cover ''near miss'' incidents.

(7) A system to analyze trends through a review of injury/illness experience and hazards identified through inspections, employee reports, accident investigations, and/or other means, so that patterns with common causes can be identified and the causes eliminated or controlled.

c. Hazard Prevention and Control. Based on the results of worksite analysis, identified hazards must be eliminated or controlled by developing and implementing the systems enumerated beginning at (2) below.

(1) The following hierarchy shall govern actions to eliminate or control hazards, with (a) being the most desirable:

(a) Engineering controls are the most reliable and effective type of controls. These are design changes that directly eliminate (ideally) or limit the severity and/or likelihood of the hazard, *e.g.* reduction in pressure/amount of hazardous material, substitution of less hazardous material, reduction of noise produced, fail-safe design, leak before burst, fault tolerance/redundancy, ergonomics, *etc.* Although not as reliable as true engineering controls, this category also includes protective safety devices such as guards, barriers, interlocks, grounding and bonding systems, pressure relief valves to keep pressure within a safe limit, *etc.* These items typically seek to reduce indirectly the likelihood of the hazard. These controls are often linked with caution and warning devices like detectors and alarms that are either automatic (do not require a human response) or manual (require a human response);

(b) Administrative controls that significantly limit daily exposure to hazard by control or manipulation of the work schedule or manner in which work is performed, *e.g.*, job rotation;

(c) Work Practice controls, a type of administrative control that includes workplace rules, safe and healthful work practices, and procedures for specific operations. Work Practice controls modify the manner in which an employee performs assigned work. This modification may result in a reduction of exposure through such methods as changing work habits, improving sanitation and hygiene practices, or making other changes in the way the employee performs the job. These controls must be:

- Understood and followed by all affected parties;
- Appropriate to the hazards of the site;
- Equitably enforced through a clearly communicated written disciplinary system that includes procedures for disciplinary action or reorientation of managers, supervisors, and non-supervisory employees who break or disregard safety rules, safe work practices, proper materials handling, or emergency procedures;
- Written, implemented, and updated by management as needed, and must be used by employees; and
- Incorporated in training, positive reinforcement, and correction programs; and

(d) Personal protective equipment.

(2) A system for initiating and tracking hazard elimination or control in a timely manner;

(3) A written system for, and ongoing documentation of, the monitoring and maintenance of workplace equipment such as preventive and predictive maintenance, to prevent equipment from becoming hazardous;

(4) An occupational health care program that uses licensed health care professionals to assess employee health status for prevention of and early recognition and treatment of illness and injury; and that provides, at a minimum, certified first aid and cardiopulmonary resuscitation (CPR) providers onsite for all shifts, and physician and emergency medical care available within a reasonable time and distance. Occupational health care professionals should be used as appropriate to accomplish these functions; and

(5) Procedures for response to emergencies on all shifts. These procedures must be written and communicated to all employees, must list requirements for personal protective equipment, first aid, medical care, and emergency egress, and must include provisions for emergency telephone numbers, exit routes, and training drills including, at a minimum, annual evacuation drills.

d. Safety and Health Training. Training is necessary to reinforce and complement management's commitment to prevent exposure to hazards. All employees must understand the hazards to which they may be exposed and how to prevent harm to themselves and others from such hazard exposure. Effective training enables employees to accept and follow established safety and health procedures. Training for safety and health must ensure that:

(1) Managers and supervisors understand their safety and health responsibilities (see F.5.a.) and are able to carry them out effectively;

(2) Managers, supervisors, and non-supervisory employees (including contract employees) are made aware of hazards, and are taught how to recognize hazardous conditions and the signs and symptoms of workplace-related illnesses;

(3) Managers, supervisors, and non-supervisory employees (including contract employees) learn the safe work procedures to follow in order to protect themselves from hazards, through training provided at the same time they are taught to do a job and through reinforcement;

(4) Managers, supervisors, non-supervisory employees (including contractor employees), and visitors on the site understand what to do in emergency situations; and

(5) Where personal protective equipment is required, employees understand that it is required, why it is required, its limitations, how to use it, and how to maintain it; and employees use it properly.

6. Compliance with OSHA Requirements

All Star sites are expected to comply with OSHA requirements. Any site deficiencies related to compliance that are uncovered through an OSHA onsite review, an internal inspection, an employee report, or other means shall be corrected promptly.

G. Demonstration Programs

1. Program Purpose and Approval

a. Demonstration Programs provide the opportunity for companies and/or worksites to demonstrate the effectiveness of alternative methods of achieving safety and health program excellence that could be substituted for current Star requirements. OSHA may approve a Demonstration Program for such purposes as:

(1) Exploring the application of VPP in industries where OSHA lacks substantial experience;

(2) Testing alternative application and approval protocols that may enable sites currently ineligible for VPP to qualify for participation; and

(3) Demonstrating the feasibility of joint federal agency oversight, including joint audits, in the area of workplace safety and health.

b. A Demonstration Program also may be used to demonstrate the potential for a new VPP program.

c. The basic parameters of a Demonstration Program shall be developed at the National Office or Regional level and shall include a clear outline of specific requirements.

d. The decision to implement a Demonstration Program shall be approved by the Assistant Secretary before any worksite is considered for participation.

2. Qualifications for Demonstration Programs

a. Safety and Health Program Requirements. Demonstration Program applicants must have a site safety and health program that, at a minimum, addresses the basic elements (management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training) described for Star in Section F.5. above. How the applicant implements these elements may be the subject of demonstration so long as Star quality protection is afforded to all employees and contractors. Further, where an alternative is being tested, the applicant may not be required to meet each of the specific elements that comprise each basic element.

b. Injury and Illness Rates. These are identical to Star Program rates requirements. See F.4.

c. Applicants must demonstrate to the Assistant Secretary's satisfaction that the alternative approach shows reasonable promise of being successful and of leading to changes in the Star Program requirements.

3. Term of Participation

Worksites may be approved to a Demonstration Program for the period of time agreed upon in advance of approval, but not to exceed 5 years and subject to regular evaluation every 12 to 18 months.

4. Approval of Demonstration Program Worksite to Star

a. Approval to Star is contingent upon:

(1) Successful demonstration of the alternative aspects of the safety and health program; and

(2) A decision by the Assistant Secretary that changing the requirements of the Star Program to allow inclusion of these alternative provisions is desirable and will result in a continuing high level of worker protection.

b. Once a decision has been made by the Assistant Secretary to change Star requirements, those changes will be effective on the date they are announced to the public.

c. When the change has become effective, the Demonstration site(s) may be approved to Star without submitting a new application or undergoing further onsite review, provided that the approval occurs no later than 1 year following the last evaluation under the Demonstration Program. If more than 1 year has elapsed, an evaluation shall be conducted prior to recommending the worksite for approval to the Star Program.

5. Demonstration Termination

a. OSHA will terminate a Demonstration Program for the following reasons:

(1) The Demonstration is likely to endanger workers at the approved site(s).

(2) It is unlikely that the Demonstration will result in participating sites' approval to the Star Program or creation of a new Program.

(3) The Demonstration period has expired.

b. When a Demonstration Program ends, any participating sites not approved to Star will be terminated from the VPP.

H. The Merit Program

1. Purpose

The Merit Program is aimed at employers in any industry who do not yet meet the qualifications for the Star Program but who have implemented a safety and health program and who want to work toward Star Program participation. If OSHA determines that an employer has demonstrated the commitment and possesses the resources to achieve Star requirements within 3 years, Merit is used to set goals that, when achieved, will qualify the site for Star participation.

2. Qualifications for Merit

a. Safety and Health Program Requirements. An eligible applicant to the Merit Program must have a written safety and health program that covers the essential elements described in Section F.5. for Star.

(1) The basic elements (management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training) must all be operational or, at a minimum, in place and ready for implementation by the date of approval. For the construction industry, each site must have in place an active program that provides for safety and health inspections involving trained employees before approval.

(2) The eligible applicant may not have met each of the specific Star requirements comprising each basic element. Participation in Merit is an opportunity for employers and their employees to work with OSHA to improve the quality of their safety and health programs and, if necessary, reduce their injury and illness rates to meet the requirements for Star. The site's safety and health program must be at Star quality within 3 years.

b. Injury and Illness Rates.

(1) For general industry and maritime, if the applicant's 3-year injury and illness incidence and/or lost/restricted workday case rate for the last 3 calendar years prior to approval does not meet the Star rates requirement (F.4.a.), the applicant must have a plan to achieve Star rates requirements within 2 years. It must be statistically possible to achieve this goal.

For each applicable contractor working at the site (for definition see F.4.a.(2)(a)), if one or both rates are above the national average, the site must demonstrate what action will be taken to reduce the rate(s) so that within 2 years they are below the applicable contractor industry average(s) for the work being performed at the site.

(2) For construction, if the injury and illness rates for the applicant site are not below the industry averages as required for Star, the applicant company must demonstrate that the company's 3-year injury and illness rates are below the most recently published BLS national average for the industry (at the three-digit level). The injury and illness incidence rate and the lost/restricted workday case rate must each be calculated over the last 3 complete calendar years. The rate must include all the applicant's employees who are actually employed at construction sites in that SIC. The applicant may use nationwide employment or may designate, with OSHA approval, an appropriate geographical area that includes the site for which application is made.

c. Goals/Annual Evaluation. In consultation with the applicant, OSHA will set goals to bring Merit sites up to Star level. Site deficiencies related to compliance with OSHA rules will be listed as 90-day items and not included in longer-term Merit goals. How a site is working toward or has achieved its Merit goals must be discussed in the site's annual evaluation of its safety and health program (Section F.5.a.(12)).

3. Term of Participation

Worksites will be approved to the Merit Program for a period of time agreed upon in advance of approval but not to exceed 3 years. The term will depend upon how long it is expected to take the applicant to accomplish the goals for Star participation. Participation is canceled at the end of the term unless approval for a second term is recommended and is approved by the Assistant Secretary. Approval for a second term will be recommended only when unanticipated unique circumstances slow the participant's progress toward accomplishing the goals.

4. Multi-Site Eligibility

OSHA expects that companies having many sites applying to the VPP will be able to learn from the experience of their first few approved sites and, therefore, will be able to bring their remaining sites to Star quality before submitting VPP applications. If OSHA determines that any such company has the resources to develop Star quality worksites, OSHA, at its discretion, may limit the number of Merit sites approved in the VPP from that company. In situations where this limit has been imposed and reached, and where a VPP team determines that an additional site is not at Star quality, the team shall give the site a list of goals to be met and documented and a minimum time frame of at least 1 year before a team will return to the site for further review.

I. Application for VPP

1. Instructions

OSHA will prepare, keep current, and make available to all interested parties application guidelines that explain the information to be submitted for OSHA review.

2. Content

a. Eligible applicants are required to provide all information described in the most current version of the relevant application instructions.

b. Amendments to submitted applications shall be requested when the application information is insufficient to determine eligibility for onsite review.

c. Materials needed to document the safety and health program that may involve trade secrets or employee privacy interests must not be included in the application. Instead, such

materials must be described in the application and provided only for viewing at the site during an application assistance visit and/or during the Pre-Approval Onsite Review.

3. Submission

The number of application copies requested by OSHA shall be submitted to the appropriate OSHA Regional Office or, in the case of some Demonstration Program applications, to OSHA's Directorate of Federal-State Operations in Washington, DC. Normally, at least two copies will be required, but the number requested may vary depending upon circumstances particular to the program and/or the applicant.

4. Acceptance of Application

a. OSHA conducts an initial review of each application to determine whether it meets VPP criteria that can be substantiated by the site's written safety and health program and supporting documentation. The applicant shall be given the opportunity to improve its application by submitting amended or additional materials.

b. If the application is incomplete, and if after notification the applicant has not responded within 90 days to OSHA's request for more information, the Agency will consider the application unacceptable and will return it to the site. The site may resubmit the application when it is complete.

5. Withdrawal of Application

a. Any applicant may withdraw a submitted application at any time. When the applicant notifies OSHA of its desire to withdraw, the original application(s) will be returned to the applicant.

b. OSHA may keep the assigned VPP Manager's marked working copy of the application for a year before discarding it, in order to respond knowledgeably should the applicant raise questions concerning the handling of the application. Once an application has been withdrawn, a new submission of an application is required to be considered for VPP approval.

6. Public Access

The following documents shall be maintained by OSHA for public access beginning on the day the site attains VPP approval and continuing for so long as the site remains in VPP:

a. In the National Office—Site information and the general description of the site's safety and health program from the application; pre-approval report and subsequent evaluation reports prepared by OSHA; the Regional Administrator's letter of recommendation; transmittal memoranda to Assistant Secretary; and the Assistant Secretary's and Regional Administrator's approval letters.

b. In the Regional Office—Complete VPP application and amendments; pre-approval report and subsequent evaluation reports; the Regional Administrator's letter of recommendation; Regional Administrator transmittal memoranda to Assistant Secretary via the Director of Federal-State Operations; the Assistant Secretary's approval letters; the memorandum to the appropriate Area Director removing the approved site from the general inspection list; and related correspondence.

J. Pre-Approval Onsite Review

1. Purpose. The pre-approval review, which OSHA conducts in a non-enforcement capacity, is a review of the site's safety and health program. It is conducted to:

a. Verify the information supplied in the application concerning qualification for the VPP;

b. Identify the strengths and weaknesses of the site's safety and health program;

c. Determine the adequacy of the site's safety and health program to address the hazards of the site and to ensure compliance with all OSHA requirements; and

d. Obtain information to assist the Assistant Secretary in making the VPP approval decision.

2. Preparation. The review shall be arranged at the mutual convenience of OSHA and the applicant. The review team shall consist of a team leader; a back-up team leader (whenever possible); and health, safety, and other specialists as required by the size of the site and the complexity of its operations.

3. Duration. The time required for the pre-approval onsite review will depend upon the size of the site and the complexity of its operations. Pre-approval reviews usually average 4 days onsite, but may be shorter or longer based on the decision of the Regional Administrator or Regional VPP Manager.

4. Scope. All pre-approval onsite reviews follow a three-pronged strategy that assesses a site's safety and health program by means of document review, site walkthrough, and employee interviews.

The onsite review shall include a review of injury and illness records, recalculation and verification of the injury/illness and incidence rates submitted with the application, verification that the safety and health program described in the application has been implemented effectively, a general assessment of safety and health conditions to determine if the safety and health program adequately protects workers from the hazards at the site, and verification of compliance with OSHA and VPP requirements.

The review shall include random formal and informal interviews with relevant individuals (such as members of any safety and health committees, management personnel, randomly selected non-supervisory employees, and contract workers).

Onsite document review shall entail examination of the following records (or samples) if they exist and are relevant to the application or to the safety and health program:

a. Written safety and health program;

b. Management statement of commitment to safety and health;

c. The OSHA Form 200 log for the site and for all site contractor employees who are required to report;

d. Safety and health manual(s);

e. Safety rules, emergency procedures, and examples of safe work procedures;

f. The system for enforcing safety rules;

g. Reports from employees of safety and health problems and documentation of management's response;

h. Self-inspection procedures, reports, and correction tracking;

i. Accident investigation reports and analyses;

j. Safety and health committee minutes;

k. Employee orientation and safety training programs and attendance records;

l. Baseline safety and industrial hygiene exposure assessments and updates;

m. Industrial hygiene monitoring records, results, exposure calculations, analyses and summary reports;

n. Annual safety and health program evaluations and site and/or corporate audits (where site audits are not comprehensive) necessary to establish that VPP requirements are being met (trade secret concerns will be accommodated to the extent possible), including the documented follow-up activities, for at least the last 3 years;

o. Preventive maintenance program and records;

p. Accountability and responsibility documentation, *e.g.*, performance standards and appraisals;

q. Contractor safety and health program(s);

r. Occupational health care programs and records;

s. Available resources devoted to safety and health;

t. Hazard and process analyses;

u. Process Safety Management documentation, if applicable;

v. Employee involvement activities; and

w. Other records that provide relevant documentation of VPP qualifications.

K. Recommendation for Program Approval

1. Deferred Approval

If the pre-approval review determines that the applicant needs to take steps to meet one or more program requirements or to come into compliance with OSHA rules, the applicant will be given reasonable time (up to 90 days) before a recommendation for VPP approval is made to the Assistant Secretary. When necessary, an onsite visit shall be made to verify the actions taken after the pre-approval onsite review visit.

2. Approval

If, in the opinion of the OSHA pre-approval onsite review team, the applicant has met the qualifications for participation in a VPP, the team's recommendation shall be made to the Regional Administrator, who, on concurrence, shall recommend approval to the Director of Federal-State Operations (FSO). The Director of Federal-State Operations shall review the pre-approval report for compliance with the program criteria and consistent application of the qualifications requirements and, on concurrence, shall forward the recommendation to the Assistant Secretary to approve participation. Approval shall occur on the day that the Assistant Secretary signs a letter informing the applicant of approval.

L. Recommendation for Program Denial

1. If OSHA determines that the applicant does not meet the requirements for participation in one of the VPP, the Agency shall allow reasonable time (not to exceed 30 calendar days) for the applicant to withdraw its application before the Regional Administrator makes a denial recommendation to the Assistant Secretary.

2. If the Assistant Secretary accepts the recommendation to deny approval, the denial will occur as of the date the Assistant Secretary signs a letter informing the applicant of the decision.

3. An applicant may appeal to the Assistant Secretary a finding by the OSHA pre-approval team that requirements have not been met. The Director of Federal-State Operations shall forward the appeal to the Assistant Secretary, along with the team's recommendation of denial and the FSO Director's own recommendation.

4. Should the Assistant Secretary for any reason reject the recommendation to approve made by the Director of FSO and/or the Regional Administrator, a letter from the Assistant Secretary denying approval and explaining the rejection will be sent to the applicant. The denial will occur as of the date of the letter.

M. Inspection/Investigation Provisions

1. Programmed Inspections

Participating worksites, unless they choose otherwise, shall be removed from OSHA's programmed inspection lists, including any lists of targeted sites for the duration of approved participation in the VPP. The applicant worksite shall be removed from the programmed inspection lists no more than 75 calendar days prior to the commencement of its scheduled pre-approval onsite review. The site shall remain off those lists until official denial of the application, applicant withdrawal of its application, or, if the applicant is approved to the VPP, subsequent cessation of active participation in the VPP.

2. Unprogrammed Inspections

a. Workplace complaints to OSHA, all fatalities and catastrophes, and other significant events shall be handled by enforcement personnel in accordance with normal OSHA enforcement procedures.

b. The history of the VPP demonstrates that safety and health problems discovered during contact with worksites normally are resolved cooperatively. Nevertheless, OSHA must reserve the right, where employees' safety and health are seriously endangered and site management refuses to correct the situation, to refer the situation to the Assistant Secretary for review and enforcement action. The employer shall be informed that a referral will be made to the Assistant Secretary and that enforcement action may result.

3. Additional VPP Investigations

a. Following significant events, *e.g.*, fatalities, chemical spills or leaks, or other accidents, OSHA may choose to use VPP personnel to conduct an onsite review to determine a participating site's continued eligibility for VPP.

b. OSHA also may choose to investigate other significant accidents or events that come to its attention and that are not required to be handled with normal OSHA enforcement procedures, whether or not injury/illness is involved. OSHA will use VPP personnel to determine whether the accident or incident reflects a serious deficiency in the site's safety and health program.

N. Post-Approval Contact/Assistance

1. OSHA Contact Person

The Contact Person for each VPP worksite shall be the appropriate Regional VPP Manager or his/her designee. This person shall be available to assist the participant, as needed.

2. Assistance

a. In some cases, such as in a Demonstration Program, at construction sites, or when needed for the Merit Program, an onsite assistance visit may be scheduled, *e.g.*, to respond to employer technical inquiries or to ensure the efficacy of a Demonstration.

b. Whenever significant changes in ownership or organizational structure occur, or the authorized collective bargaining agent changes, OSHA may make an onsite assistance visit if needed to determine the impact of the changes on VPP participation. In the event of such changes, the appropriate Regional Administrator must be notified of the change, and a new signed Statement of Commitment shall be required. The Statement must be signed by management and appropriate bargaining representatives.

c. Whenever the 3-year injury and illness or lost/restricted workday rates of a Star Program participant exceed the latest national average published by BLS, at the discretion of the Regional Administrator, the participant may be required to develop an agreed upon 2-year rate reduction plan. If appropriate, OSHA may make an onsite assistance visit to help the site develop the plan.

O. Periodic Onsite Evaluation of Approved Worksites

1. The Star Program

a. Purpose. Onsite evaluations of Star participants are intended to:

(1) Determine continued qualification for the Star Program;

(2) Document results of program participation in terms of the evaluation criteria and other noteworthy aspects of the site's safety and health program; and

(3) Identify any problems that have the potential to adversely affect continued Star Program qualification and determine appropriate follow-up actions.

b. Frequency. The first post-approval evaluation shall be within 30 to 42 months of the initial Star approval or, in the case of a Demonstration Program site

that has been approved to Star, within 30 to 42 months of the last Demonstration evaluation. Subsequently, all Star participants shall be evaluated at no greater than 60-month intervals. (The identification of potentially serious safety and health risks may create the need for more frequent evaluations.)

c. Scope. OSHA's evaluation of Star Program participants shall consist mainly of an onsite visit similar in duration and scope to the pre-approval program review described in J.3–4. OSHA shall review the documentation of program implementation since pre-approval review or since the previous evaluation. The evaluation shall include a review of injury and illness incidence and lost/restricted workday case rates for the site and for its applicable contractor employees as described in F.4. The rates reported shall be for the latest 3 complete calendar years. The report requirements for applicable contractor rates will be phased in as follows:

(1) In 2000, contractor data for calendar year 1999;

(2) In 2001, contractor data for calendar years 1999 and 2000;

(3) Thereafter, data for the most recent 3 calendar years.

d. Measures of Effectiveness. OSHA shall use the following factors in the evaluation of Star Program participants:

(1) Continued compliance with the program requirements and continuous improvement in the safety and health program;

(2) Satisfaction and continuing demonstrated commitment of employees and management;

(3) Nature and validity of any complaints received by OSHA;

(4) Nature and resolution of problems that may have come to OSHA's attention since approval or the last evaluation; and

(5) The effectiveness of employee participation programs.

e. Evaluation Decisions and Recommendations. The Regional Administrator may make one of the following decisions/recommendations following a Star evaluation visit:

(1) Decision to continue participation in the Star Program;

(2) Decision to allow a 1-year conditional participation in the Star Program. The VPP onsite review team may recommend this alternative if it finds that the site has allowed one or more program elements to slip below Star quality. The site must return its safety and health program to Star quality within 90 calendar days of the evaluation visit and must demonstrate a commitment to maintain that level of quality. A VPP onsite review team shall return in 1 year to determine if the site's safety and health program remains at Star quality. If Star quality has been maintained, the team shall recommend the site be re-approved to the Star Program; or

(3) Termination. After considering the recommendation of the VPP onsite review team, the Regional Administrator may recommend to the Assistant Secretary that a site be terminated if the site has been found to have significantly failed to maintain its safety and health program at Star quality.

2. The Demonstration Program

a. Purpose of Evaluation. Onsite Demonstration evaluations are intended to:

(1) Determine continued qualification for the Demonstration Program;

(2) Document results of program participation in terms of the evaluation criteria and other noteworthy aspects of the site's safety and health program;

(3) Ensure that the demonstration aspects of the program continue to be effective and to protect employees; and

(4) Identify any problems that have the potential to adversely affect continued Demonstration Program qualification and determine appropriate follow-up actions.

b. Frequency. Demonstration Program participants shall be evaluated every 12 to 18 months.

c. Scope. Identical to Star Program evaluations; see O.1.c. above.

d. Measures of Effectiveness. A Demonstration Program evaluation shall assess the effectiveness of the alternate criteria being demonstrated. It also shall consider all factors used to measure the effectiveness of Star Program participants. See O.1.d. above.

e. Evaluation Recommendations and Decisions. The Regional Administrator may make one of the following recommendations to the Assistant Secretary following a Demonstration evaluation visit. The Assistant Secretary will then decide:

(1) Continued participation in the Demonstration Program;

(2) Changes in the Star requirements to include the aspects being demonstrated because they provide effective Star quality safety and health protection; or

(3) Termination because either the Demonstration aspects do not provide Star quality protection or the site has significantly failed to maintain the remainder of its safety and health program at Star quality.

3. The Merit Program

a. Purpose of Evaluation. Onsite Merit evaluations are intended to:

(1) Determine continued qualification for the Merit Program, or determine whether the applicant may be approved for the Star Program;

(2) Determine whether adequate progress has been made toward the agreed-upon Merit goals;

(3) Identify any problems in the safety and health program or its implementation that need resolution in order to continue qualification or meet agreed-upon goals;

(4) Document program improvements and/or improved results; and

(5) Provide advice and suggestions for needed improvements.

b. Frequency. The first evaluation of a Merit participant shall be conducted within 24 months (18 months is recommended) of approval. The site may request an earlier evaluation if it believes it has met Star Program qualifications.

c. Scope. OSHA's evaluation of Merit Program participants shall consist mainly of an onsite visit similar in duration and scope to the pre-approval program review described in J.3–4. OSHA shall review documentation of program implementation since the pre-approval review or the previous evaluation. The evaluation shall include a review of injury and illness incidence and lost/restricted workday case rates for the site and for its applicable contractor employees as described in E.4.

d. Measures of Effectiveness. The following factors shall be measured in the evaluation of Merit Programs:

(1) Continued adequacy of the safety and health program to address the potential hazards of the workplace;

(2) Comparison of employer and contractor rates to the industry average;

(3) Satisfaction and continuing demonstrated commitment of employees and management;

(4) Nature and validity of any complaints received by OSHA;

(5) Resolution of problems that have come to OSHA's attention;

(6) Effectiveness of the employee participation program; and

(7) Progress made toward goals specified in the pre-approval or previous evaluation report.

e. Evaluation Decisions and Recommendations. The Regional Administrator may make one of the following decisions/recommendations following a Merit evaluation visit:

(1) Decision for continued Merit participation;

(2) Recommendation for advancement to the Star Program; or

(3) Recommendation for termination.

P. Termination or Withdrawal

1. Reasons for Termination.

A site will be terminated from the VPP when:

a. Participating site management, or the duly authorized collective bargaining agent, where applicable, withdraws support for VPP participation.

b. A site fails to maintain its safety and health program in accordance with the program requirements.

c. No significant progress has been made toward achieving the established Merit goals or 1-year Star Conditional goals.

d. The Merit term of approval has expired, and no recommendation has been made for a second term.

e. Construction work at a construction industry site has been completed.

f. The sale of a VPP site to another company or a management change has significantly weakened the safety and health program.

g. Resident contractor participation is no longer possible because the host site no longer participates in VPP.

h. OSHA terminates a Demonstration Program for just cause.

i. The Regional Administrator presents written evidence to the Assistant Secretary that the essential trust and cooperation among labor, management, and OSHA no longer exist, and therefore recommends termination, and the Assistant Secretary concurs.

2. Termination Notification and Appeal or Withdrawal

Under most circumstances, OSHA shall provide the participant and bargaining unit representatives 30 days' notice of intent to terminate a site's participation in the VPP. During the 30-day period, the participant is entitled to appeal in writing to the Assistant Secretary and to provide reasons why it believes the site should not be removed from the VPP.

OSHA will not provide 30 days' notice when:

a. Other terms for termination were agreed upon before approval;

b. A set period for approval is expiring; or

c. Construction has been completed at a participating construction site.

3. Withdrawal of a Participating Site. Upon receipt of an OSHA notice of intent to terminate, or for any reason, a participant may withdraw from the VPP by submitting written notification to the appropriate Regional Administrator.

4. Reapplication Following Termination. OSHA will not consider the reapplication of a terminated site for a period of 3 years from the date of termination.

Q. Reinstatement

Reinstatement requires reapplication.

Signed at Washington, DC, this 4th day of October, 1999.

Charles N. Jeffress,

Assistant Secretary for Occupational Safety and Health.

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

4865 (*See* Memorandum of April 16, 1999) 53883
7227 53877
7228 54193
7229 54195
7230 54197
7231 54755
7232 54757
7233 54759

Executive Orders:

11145 (Amended by EO 13138) 53879
11183 (Amended by EO 13138) 53879
11287 (Amended by EO 13138) 53879
12131 (Amended by EO 13138) 53879
12196 (Amended by EO 13138) 53879
12216 (Amended by EO 13138) 53879
12345 (Amended by EO 13138) 53879
12367 (Amended by EO 13138) 53879
12382 (Amended by EO 13138) 53879
12473 (Amended by EO 13140) 55115
12478 (see EO 13140 55115
12550 (see EO 13140) 55115
12586 (see EO 13140) 55115
12708 (see EO 13140) 55115
12767 (see EO 13140) 55115
12852 (Revoked by EO 13138) 53879
12871 (Amended by EO 13138) 53879
12876 (Amended by EO 13138) 53879
12882 (Amended by EO 13138) 53879
12888 (see EO 13140) 55115
12900 (Amended by EO 13138) 53879
12905 (Amended by EO 13138) 53879
12936 (see EO 13140) 55115
12960 (see EO 13140) 55115
12961 (Revoked by EO 13138) 53879
12994 (Amended by EO 13138) 53879
13010 (Revoked in part by EO 13138) 53879
13017 (Revoked by EO 13138) 53879
13021 (Amended by EO 13138) 53879
13037 (Revoked by EO 13138) 53879
13038 (Revoked by EO 13138) 53879
13050 (Revoked by EO 13138) 53879
13062 (Superseded in part by EO 13138) 53879
13086 (see EO 13140) 55115
13115 (Amended by EO 13138) 53879
13138 53879
13139 54175
13140 55115

Administrative Orders:

Memorandums:

April 16, 1999 53883

Presidential Determinations:

No. 99–38 of September 21, 1999 53573
No. 99–39 of September 21, 1999 53575
No. 99–40 of September 21, 1999 53577
No. 99–41 of September 22, 1999 53579
No. 99–42 of September 29, 1999 54499
No. 99–43 of September 30, 1999 54501
No. 99–44 of September 30, 1999 54503
No. 99–45 of September 30, 1999 53505

5 CFR

532 53179
831 53581
842 53581
870 54761
1201 54507

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 12, 1999

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Food stamp program:

Electronic benefit transfer system; adjustments; published 9-9-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

Pacific Coast groundfish; published 9-10-99

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Indiana; correction; published 10-12-99

Minnesota; published 8-13-99

Hazardous waste program authorizations:

Massachusetts; published 10-12-99

FEDERAL COMMUNICATIONS COMMISSION

Freedom of Information Act; implementation:

Confidential information treatment; current policy examination; published 10-12-99

Radio stations; table of assignments:

Arkansas; published 9-14-99

California; published 9-10-99

Colorado; published 9-10-99

Hawaii; published 9-10-99

LABOR DEPARTMENT

Mine Safety and Health Administration

Coal mine and metal and nonmetal mine safety and health:

Underground mines—

Lighting equipment, coal dust/rock dust analyzers, and methane detectors; regulations improved and removed; published 8-10-99

Coal mine safety and health:

Coal mine respirable dust samplers; calibration and maintenance procedures; regulations improved and removed; published 8-10-99

Underground mines—

Approved books and records; regulations improved and removed; published 8-10-99

NUCLEAR REGULATORY COMMISSION

Acquisition regulations:

Revision; published 9-10-99

Organization, functions, and authority delegations:

Local public document room program—

Public records; discontinuance of electronic availability; published 9-9-99

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Truck size and weight—

Nondivisible load or vehicle definition modification to include marked military vehicles; published 9-9-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Tomatoes grown in—

Florida; comments due by 10-19-99; published 8-20-99

Walnuts grown in—

California; comments due by 10-18-99; published 8-19-99

AGRICULTURE DEPARTMENT

Rural Utilities Service

Telecommunications loan:

General policies, types of loans and loan requirements; comments due by 10-18-99; published 9-17-99

Telecommunications loans:

General policies, types of loans and loan requirements; comments due by 10-18-99; published 9-17-99

COMMERCE DEPARTMENT

Export Administration Bureau

Export administration regulations:

Commercial charges and devices containing energetic materials; exports and reexports; comments due by 10-18-99; published 9-1-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico Region fishery management plans; comments due by 10-18-99; published 8-18-99

Northeastern United States fisheries—

Atlantic herring; comments due by 10-18-99; published 9-16-99

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Act:

Multi-purpose lighters; child resistance standard; comments due by 10-18-99; published 8-4-99

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):

Prosthetic devices; comments due by 10-19-99; published 8-20-99

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Arizona; comments due by 10-20-99; published 9-20-99

Delaware; comments due by 10-18-99; published 9-17-99

Delaware; correction; comments due by 10-18-99; published 9-29-99

Nevada; comments due by 10-20-99; published 9-20-99

Air quality implementation plans; approval and promulgation; various States:

Arizona; comments due by 10-20-99; published 9-20-99

California; comments due by 10-22-99; published 9-22-99

Nevada; comments due by 10-21-99; published 10-1-99

Oregon; comments due by 10-21-99; published 9-21-99

South Dakota; comments due by 10-21-99; published 9-21-99

Hazardous waste:

Identification and listing—

Dye and pigment industries; comments due by 10-21-99; published 9-8-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Glufosinate ammonium; comments due by 10-18-99; published 8-18-99

Pyriproxyfen; comments due by 10-18-99; published 8-18-99

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 10-18-99; published 9-17-99

National priorities list update; comments due by 10-18-99; published 9-17-99

National priorities list; update; comments due by 10-18-99; published 9-17-99

Water programs:

Clean Water Act—

Water quality planning and management; comments due by 10-22-99; published 8-23-99

Water quality planning and management; National Pollutant Discharge Elimination System program and Federal antidegradation policy; comments due by 10-22-99; published 8-23-99

FEDERAL COMMUNICATIONS COMMISSION

Radio frequency devices:

Digital television receivers; closed captioning requirements; comments due by 10-18-99; published 8-2-99

Radio stations; table of assignments:

Oregon; comments due by 10-18-99; published 9-10-99

GENERAL SERVICES ADMINISTRATION

Acquisition regulations:

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.R. 2981/P.L. 106–64

To extend energy conservation programs under the Energy Policy and Conservation Act through March 31, 2000. (Oct. 5, 1999; 113 Stat. 511)

S. 1059/P.L. 106–65

National Defense Authorization Act for Fiscal Year 2000 (Oct. 5, 1999; 113 Stat. 512)

S. 293/P.L. 106–66

To direct the Secretaries of Agriculture and Interior to convey certain lands in San Juan County, New Mexico, to San Juan College. (Oct. 6, 1999; 113 Stat. 977)

S. 944/P.L. 106–67

To amend Public Law 105-188 to provide for the mineral leasing of certain Indian lands in Oklahoma. (Oct. 6, 1999; 113 Stat. 979)

S. 1072/P.L. 106–68

To make certain technical and other corrections relating to the Centennial of Flight Commemoration Act (36 U.S.C. 143 note; 112 Stat. 3486 et seq.). (Oct. 6, 1999; 113 Stat. 981)

Last List October 6, 1999

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–038–00002–4)	20.00	[1] Jan. 1, 1999
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1999
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–038–00005–9)	27.00	Jan. 1, 1999
1200–End, 6 (6 Reserved)	(869–038–00006–7)	44.00	Jan. 1, 1999
7 Parts:			
1–26	(869–038–00007–5)	25.00	Jan. 1, 1999
27–52	(869–038–00008–3)	32.00	Jan. 1, 1999
53–209	(869–038–00009–1)	20.00	Jan. 1, 1999
210–299	(869–038–00010–5)	47.00	Jan. 1, 1999
300–399	(869–038–00011–3)	25.00	Jan. 1, 1999
400–699	(869–038–00012–1)	37.00	Jan. 1, 1999
700–899	(869–038–00013–0)	32.00	Jan. 1, 1999
900–999	(869–038–00014–8)	41.00	Jan. 1, 1999
1000–1199	(869–038–00015–6)	46.00	Jan. 1, 1999
1200–1599	(869–038–00016–4)	34.00	Jan. 1, 1999
1600–1899	(869–038–00017–2)	55.00	Jan. 1, 1999
1900–1939	(869–038–00018–1)	19.00	Jan. 1, 1999
1940–1949	(869–038–00019–9)	34.00	Jan. 1, 1999
1950–1999	(869–038–00020–2)	41.00	Jan. 1, 1999
2000–End	(869–038–00021–1)	27.00	Jan. 1, 1999
8	(869–038–00022–9)	36.00	Jan. 1, 1999
9 Parts:			
1–199	(869–038–00023–7)	42.00	Jan. 1, 1999
200–End	(869–038–00024–5)	37.00	Jan. 1, 1999
10 Parts:			
1–50	(869–038–00025–3)	42.00	Jan. 1, 1999
51–199	(869–038–00026–1)	34.00	Jan. 1, 1999
200–499	(869–038–00027–0)	33.00	Jan. 1, 1999
500–End	(869–038–00028–8)	43.00	Jan. 1, 1999
11	(869–038–0002–6)	20.00	Jan. 1, 1999
12 Parts:			
1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
200–219	(869–038–00031–8)	20.00	Jan. 1, 1999
220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
300–499	(869–038–00033–4)	25.00	Jan. 1, 1999
500–599	(869–038–00034–2)	24.00	Jan. 1, 1999
600–End	(869–038–00035–1)	45.00	Jan. 1, 1999
13	(869–038–00036–9)	25.00	Jan. 1, 1999
14 Parts:			
1–59	(869–038–00037–7)	50.00	Jan. 1, 1999
60–139	(869–038–00038–5)	42.00	Jan. 1, 1999
140–199	(869–038–00039–3)	17.00	Jan. 1, 1999
200–1199	(869–038–00040–7)	28.00	Jan. 1, 1999
1200–End	(869–038–00041–5)	24.00	Jan. 1, 1999
15 Parts:			
0–299	(869–038–00042–3)	25.00	Jan. 1, 1999
300–799	(869–038–00043–1)	36.00	Jan. 1, 1999
800–End	(869–038–00044–0)	24.00	Jan. 1, 1999
16 Parts:			
0–999	(869–038–00045–8)	32.00	Jan. 1, 1999
1000–End	(869–038–00046–6)	37.00	Jan. 1, 1999
17 Parts:			
1–199	(869–038–00048–2)	29.00	Apr. 1, 1999
200–239	(869–038–00049–1)	34.00	Apr. 1, 1999
240–End	(869–038–00050–4)	44.00	Apr. 1, 1999
18 Parts:			
1–399	(869–038–00051–2)	48.00	Apr. 1, 1999
400–End	(869–038–00052–1)	14.00	Apr. 1, 1999
19 Parts:			
1–140	(869–038–00053–9)	37.00	Apr. 1, 1999
141–199	(869–038–00054–7)	36.00	Apr. 1, 1999
200–End	(869–038–00055–5)	18.00	Apr. 1, 1999
20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
500–End	(869–038–00058–0)	44.00	[7] Apr. 1, 1999
21 Parts:			
1–99	(869–038–00059–8)	24.00	Apr. 1, 1999
100–169	(869–038–00060–1)	28.00	Apr. 1, 1999
170–199	(869–038–00061–0)	29.00	Apr. 1, 1999
200–299	(869–038–00062–8)	11.00	Apr. 1, 1999
300–499	(869–038–00063–6)	50.00	Apr. 1, 1999
500–599	(869–038–00064–4)	28.00	Apr. 1, 1999
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
800–1299	(869–038–00066–8)	35.00	Apr. 1, 1999
1300–End	(869–038–00067–9)	14.00	Apr. 1, 1999
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
300–End	(869–038–00069–5)	32.00	Apr. 1, 1999
23	(869–038–00070–9)	27.00	Apr. 1, 1999
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–038–00072–5)	32.00	Apr. 1, 1999
500–699	(869–038–00073–3)	18.00	Apr. 1, 1999
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–038–00075–0)	18.00	Apr. 1, 1999
25	(869–038–00076–8)	47.00	Apr. 1, 1999
26 Parts:			
§§ 1.0-1–1.60	(869–038–00077–6)	27.00	Apr. 1, 1999
§§ 1.61–1.169	(869–038–00078–4)	50.00	Apr. 1, 1999
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
§§ 1.301–1.400	(869–038–00080–6)	25.00	Apr. 1, 1999
§§ 1.401–1.440	(869–038–00081–4)	43.00	Apr. 1, 1999
§§ 1.441-1.500	(869-038-00082-2)	30.00	Apr. 1, 1999
§§ 1.501–1.640	(869–038–00083–1)	27.00	[7] Apr. 1, 1999
§§ 1.641–1.850	(869–038–00084–9)	35.00	Apr. 1, 1999
§§ 1.851–1.907	(869–038–00085–7)	40.00	Apr. 1, 1999
§§ 1.908–1.1000	(869–038–00086–5)	38.00	Apr. 1, 1999
§§ 1.1001–1.1400	(869–038–00087–3)	40.00	Apr. 1, 1999
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–038–00090–3)	28.00	Apr. 1, 1999
40–49	(869–038–00091–1)	17.00	Apr. 1, 1999
50–299	(869–038–00092–0)	21.00	Apr. 1, 1999
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
500–599	(869–038–00094–6)	11.00	Apr. 1, 1999
600–End	(869–038–00095–4)	11.00	Apr. 1, 1999
27 Parts:			
1–199	(869–038–00096–2)	53.00	Apr. 1, 1999

Title	Stock Number	Price	Revision Date
200–End	(869–038–00097–1)	17.00	Apr. 1, 1999
28 Parts:			
*0-42	(869–034–00098–9)	39.00	July 1, 1999
43-end	(869-034-00099-7)	32.00	July 1, 1999
29 Parts:			
0–99	(869–034–00100–4)	28.00	July 1, 1999
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–034–00102–1)	40.00	[8] July 1, 1999
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–7)	46.00	July 1, 1999
1910 (§§ 1910.1000 to end)	(869–034–00105–5)	28.00	July 1, 1999
1911–1925	(869–034–00106–3)	18.00	July 1, 1999
1926	(869–034–00107–1)	30.00	July 1, 1999
1927–End	(869–034–00108–0)	43.00	July 1, 1999
30 Parts:			
1–199	(869–034–00109–8)	35.00	July 1, 1999
200–699	(869–038–00110–1)	30.00	July 1, 1999
700–End	(869–034–00111–0)	35.00	July 1, 1999
31 Parts:			
0–199	(869–038–00112–8)	21.00	July 1, 1999
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–4)	46.00	July 1, 1999
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–1)	32.00	July 1, 1999
630–699	(869–034–00117–9)	23.00	July 1, 1999
*700–799	(869–034–00118–7)	27.00	July 1, 1999
800–End	(869–034–00119–5)	27.00	July 1, 1999
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
*125–199	(869–034–00121–7)	41.00	July 1, 1999
*200–End	(869–034–00122–5)	33.00	July 1, 1999
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–1)	25.00	July 1, 1999
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–6)	21.00	July 1, 1999
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–2)	38.00	July 1, 1999
37	(869–034–00130–1)	27.00	July 1, 1998
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–2)	41.00	July 1, 1999
39	(869–034–00133–1)	24.00	July 1, 1999
40 Parts:			
*1–49	(869–034–00134–9)	33.00	July 1, 1999
*50–51	(869–034–00135–7)	25.00	July 1, 1999
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–3)	19.00	July 1, 1999
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00143–8)	11.00	July 1, 1999
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00150–1)	23.00	July 1, 1999
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	30.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00159–4)	39.00	July 1, 1999
102–200	(869–034–00160–8)	16.00	July 1, 1999
201–End	(869–034–00161–6)	15.00	July 1, 1999
42 Parts:			
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430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
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1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			
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200–499	(869–034–00168–8)	14.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	30.00	Oct. 1, 1998
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46 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.