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GPO

Federal Register

3–7–00 **Tuesday**
Vol. 65 No. 45 **Mar. 7, 2000**
Pages 11859–12060

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–59–AD; Amendment 39–11606; AD 2000–04–23]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 and –300 series airplanes. This action requires repetitive inspections to detect cracking of the trailing edge of the rudder spring tab, and follow-on actions, if necessary. For certain airplanes, this action provides for optional terminating action for the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent cracking of the rudder spring tab, which could result in reduced flutter margin and consequent loss of control of the airplane.

DATES: Effective March 22, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 2000.

Comments for inclusion in the Rules Docket must be received on or before April 6, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–59–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

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

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 and –300 series airplanes. The LBA advises that it has received a report of 14 cracked rudder spring tabs found during production. Investigation conducted by the manufacturer revealed that the source of the cracks was the shape of the spring tab mold. When the mold was closed during production, layers of the spring tab at the trailing edge were partially exposed and subsequently improperly ground off in the paint shop, destroying one or more layers of the trailing edge. Further investigation by the manufacturer indicated that a spring tab having a crack longer than 750 millimeters would have so little stiffness that the spring tab could flutter. This condition, if not corrected, could result in loss of control of the airplane.

Explanation of Relevant Service Information

Dornier has issued Alert Service Bulletins ASB–328–55–028 (for Model 328–100 series airplanes) and ASB–328J–55–002 (for Model 328–300 series airplanes), both dated October 29, 1999. These alert service bulletins describe procedures for an initial detailed visual inspection to detect cracking of a 2-inch length of the trailing edge of the rudder spring tab. Follow-on actions for a crack-free spring tab include the installation of high-speed tape on the trailing edge, repetitive visual checks of the tape to detect discrepancies (improper seat and damage), and replacement of discrepant tape with new tape. Corrective actions for a cracked spring tab include replacement with a new spring tab. These alert service bulletins further describe procedures for subsequent, more extensive, repetitive detailed visual inspections to detect cracking of the trailing edge of the rudder spring tab, and replacement of any cracked spring tab with a new spring tab.

The LBA classified these service bulletins as mandatory and issued German airworthiness directives 2000–002 (for Model 328–100 series airplanes) and 2000–001 (for Model 328–300 series airplanes), both dated January 13, 2000, in order to ensure the continued airworthiness of these airplanes in Germany.

Dornier has also issued Service Bulletin SB–328–55–307, dated December 1, 1999, which describes procedures for a one-time pressure test inspection, and permanent repair of any cracked spring tab. Accomplishment of these actions would eliminate the need for the repetitive inspections specified by Dornier Alert Service Bulletin ASB–328–55–028.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent cracking of the rudder spring tab, which could result in reduced flutter margin and consequent reduced structural integrity and loss of control of the airplane. This AD requires accomplishment of the actions specified in the alert service bulletins described

previously, except as discussed below. For Model 328–100 series airplanes, this AD also provides for an optional repair, which, if accomplished, would terminate the repetitive inspection requirement.

Differences Between the Rule and Relevant Service Information

Operators should note that, unlike the procedures described in the alert service bulletins, this AD does not permit further flight if any cracking is detected in the spring tab. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject spring tab that is found to be cracked must be replaced prior to further flight.

Whereas this AD provides for optional terminating action for Model 328–100 series airplanes, German airworthiness directive 2000–002 offers no such provision. However, the FAA has since been advised by the LBA and Dornier that terminating action is available for Model 328–100 series airplanes. Therefore, the FAA has determined that, for these airplanes, accomplishment of the pressure test inspection, and permanent repair of any cracked spring tab, as specified by Dornier Service Bulletin SB–328–55–307, dated December 1, 1999, is acceptable for terminating action for the repetitive inspections specified by Alert Service Bulletin ASB–328–55–028.

The alert service bulletins recommend that the tape checks be repeated at every line check and that the repetitive detailed visual inspection be repeated at every A-check; however, the repetitive intervals required by this AD are specified in terms of flight hours or days, which generally correspond to operators' line check and A-check schedules. The FAA has determined that the required repetitive intervals represent the maximum interval of time allowable for the affected airplanes to continue to operate, prior to accomplishing the required inspections, without compromising safety. Because maintenance schedules may vary from operator to operator, there would be no assurance that inspections accomplished according to a particular operator's line check or A-check schedule would be accomplished during the maximum allowable intervals.

Interim Action

This is considered to be interim action for Model 328–300 series airplanes. The manufacturer has advised that it currently is developing procedures that will positively address the unsafe condition addressed by this AD for these airplanes. Once these procedures are developed, approved, and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–59–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–04–23 Dornier Luftfahrt GMBH: Amendment 39–11606. Docket 2000–NM–59–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3119 inclusive; and Model 328–300 series airplanes, serial numbers 3108 through 3123 inclusive, and 3125 through 3128 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the rudder spring tab, which could result in reduced flutter margin and consequent loss of control of the airplane, accomplish the following:

Initial Inspection

(a) Within 14 days after the effective date of this AD, perform a detailed visual inspection to detect cracking of the trailing edge of the rudder spring tab, in accordance with Figure 1 of Dornier Alert Service Bulletin ASB–328–55–028 (for Model 328–100 series airplanes) or ASB–328J–55–002 (for Model 328–300 series airplanes), both dated October 29, 1999; as applicable.

(1) If no crack is detected, accomplish the actions specified by paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Prior to further flight, install high-speed tape on the trailing edge, in accordance with the applicable alert service bulletin.

(ii) Within 60 flight hours or 15 days after installation of the tape, whichever occurs first, perform a general visual inspection to detect discrepancies of the tape (including improper seat and damage), in accordance with the applicable alert service bulletin.

(A) If no discrepancy is found, repeat the general visual inspection of the tape thereafter at intervals not to exceed 60 flight hours or 15 days, whichever occurs first, until the requirements of paragraph (b) of this AD have been accomplished.

(B) If any discrepancy is found, prior to further flight, replace the tape with new tape, and repeat the general visual inspection of the tape thereafter at intervals not to exceed 60 flight hours or 15 days, whichever occurs first, until the requirements of paragraph (b) of this AD have been accomplished.

(2) If any crack is detected, prior to further flight, replace the spring tab with a new spring tab, in accordance with the applicable alert service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Note 3: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Repetitive Inspection

(b) Within 400 flight hours after the effective date of this AD; or within 400 flight hours after tab replacement in accordance with paragraph (a)(2) of this AD, if required; whichever occurs later: Perform a detailed visual inspection to detect cracking of the trailing edge of the rudder spring tab, in accordance with Figure 2 of Dornier Alert Service Bulletin ASB–328–55–028 (for Model 328–100 series airplanes) or ASB–328J–55–002 (for Model 328–300 series airplanes), both dated October 29, 1999; as applicable. Accomplishment of the requirements of this paragraph within the compliance time required for paragraph (a) of this AD constitutes terminating action for the requirements of paragraph (a) of this AD.

(1) If no crack is detected, repeat the detailed visual inspection required by paragraph (b) of this AD at intervals not to exceed 400 flight hours.

(2) If any crack is detected, prior to further flight, replace the spring tab with a new spring tab, in accordance with the applicable alert service bulletin. Thereafter, repeat the detailed visual inspection required by paragraph (b) of this AD at intervals not to exceed 400 flight hours.

Optional Terminating Action

(c) For Model 328–100 series airplanes: Accomplishment of the pressure test inspection of the spring tab, and applicable corrective actions, in accordance with Dornier Service Bulletin SB–328–55–307, dated December 1, 1999, constitutes terminating action for the requirements of paragraphs (a) and (b) of this AD.

Spares

(d) As of the effective date of this AD, no person shall install on any airplane a spring tab, part number (P/N) 001A554A1706–000 (for Model 328–100 series airplanes) or P/N 001A554A1706–000 (for Model 328–300 series airplanes), unless that spring tab has been inspected in accordance with the requirements of this AD.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(f) 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.

Incorporation by Reference

(g) The actions shall be done in accordance with Dornier Alert Service Bulletin ASB–328–55–028 (for Model 328–100 series airplanes), dated October 29, 1999; or Dornier Alert Service Bulletin ASB–328J–55–002 (for Model 328–300 series airplanes), dated October 29, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in German airworthiness directives 2000–002 (for Model 328–100 series airplanes) and 2000–001 (for Model 328–300 series airplanes), both dated January 13, 2000.

(h) This amendment becomes effective on March 22, 2000.

Issued in Renton, Washington, on February 24, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–4930 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–67–AD; Amendment 39–11618; AD 2000–05–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200, –200PF, and –200CB Series Airplanes Powered by Rolls-Royce RB211–535C/E4/E4B Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 757–200, –200PF, and –200CB series airplanes, that currently requires repetitive inspections of the engine thrust control cable system to detect discrepancies of the wire rope, fittings, and pulleys; and replacement, if necessary. That AD also requires a one-time inspection to determine the part number of certain pulleys, and replacement of existing pulleys with new pulleys, if necessary; and modification of the engine thrust control

cable installation. This new action corrects a certain part number. This AD is prompted by reports of failure of certain engine thrust control cables. The actions specified by this AD are intended to prevent failure of certain engine thrust control cables, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane.

DATES: Effective March 22, 2000.

The incorporation by reference of certain publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of February 7, 2000 (65 FR 1, January 3, 2000).

Comments for inclusion in the Rules Docket must be received on or before May 8, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–67–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kathrine Rask, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1547; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On December 22, 1999, the FAA issued AD 99–27–06, amendment 39–11487 (65 FR 1, January 3, 2000), applicable to certain Boeing Model 757–200, –200PF, and –200CB series airplanes, to require repetitive inspections of the engine thrust control cable system to detect discrepancies of the wire rope, fittings, and pulleys; and replacement, if necessary. That AD also requires a one-time inspection to determine the part number of certain pulleys and replacement of existing pulleys with new pulleys, if necessary; and modification of the engine thrust control cable installation. That action was prompted by reports of failure of certain engine thrust control cables. The actions required by that AD are intended to prevent failure of certain engine thrust control cables, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has determined that a typographical error in paragraph (b) of AD 99–27–06 identified part number (P/N) BAC30M4 as a part number for the thrust control cable pulleys. However, as referenced in the preamble of the final rule, BACP30M4 is the correct P/N for the pulleys, as P/N BAC30M4 does not exist. In all other respects, the original document is correct.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 99–27–06 to continue to require repetitive inspections of the engine thrust control cable system to detect discrepancies of the wire rope, fittings, and pulleys; and replacement, if necessary. This AD also continues to require a one-time inspection to determine the part number of certain pulleys, and replacement of existing pulleys with new pulleys, if necessary; and modification of the engine thrust control cable installation.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–67–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11487 (65 FR 1, January 3, 2000) and by adding a new airworthiness directive (AD), amendment 39–11618, to read as follows:

2000–05–09 Boeing: Amendment 39–11618. Docket 2000–NM–67–AD. Supersedes AD 99–27–06, Amendment 39–11487.

Applicability: Model 757–200, –200PF, and –200CB series airplanes powered by Rolls-Royce RB211–535C/E4/E4B turbofan engines, 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 (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 engine thrust control cable failure, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane, accomplish the following:

Inspections and Corrective Actions

(a) Within 24 months or 6,000 flight hours after February 7, 2000 (the effective date of AD 99–27–06, amendment 39–11487), whichever occurs first: Accomplish the ''Thrust Control Cable Inspection Procedure'' specified in Appendix 1. (including Figure 1) of this AD to verify the integrity of the thrust control cables. Prior to further flight, repair any discrepancy found in accordance with the procedures described in the Boeing 757 Maintenance Manual. Repeat the inspection thereafter at intervals not to exceed 24 months or 6,000 flight hours, whichever occurs first.

(b) For airplanes having line numbers 1 through 636 inclusive: Within 24 months or 6,000 flight hours after February 7, 2000, whichever occurs first, perform a one-time inspection of the 8 engine thrust control cable pulleys in the struts (4 in each strut) to determine the part number (P/N) of each pulley. If any pulley having P/N 65B80977–1 or BACP30M4 is installed, prior to further flight, replace it with a pulley having P/N 255T1232–7, in accordance with the procedures described in the Boeing 757 Airplane Maintenance Manual.

Note 2: The location of the pulleys to be inspected in accordance with paragraph (b) of this AD is specified in Chapters 53–11–53–04, 76–11–52–01, and 76–11–52–02 of the Boeing 757 Illustrated Parts Catalog.

Modifications

(c) For airplanes identified in Boeing Service Bulletin 757–76–1, dated May 18, 1984: Within 24 months or 6,000 flight hours after February 7, 2000, whichever occurs first, remove the guide bracket of the engine thrust control cable located on the front spar of the right wing, in accordance with the service bulletin.

(d) For airplanes identified in Boeing Service Bulletin 757–76–0005, dated May 5, 1988: Within 24 months or 6,000 flight hours after February 7, 2000, whichever occurs first, remove the engine thrust control cable breakaway stop assemblies, and replace sections of the engine thrust control cables with smaller diameter cables in accordance with the service bulletin.

(e) For airplanes identified in Boeing Service Bulletin 757–30A0018, Revision 2, dated September 9, 1999: Within 60 days after February 7, 2000, install a support bracket assembly between the window heat wire bundle and the engine thrust control cable; and adjust the wire bundle clearance, as necessary, to parallel the minimum clearance specified in Boeing Alert Service Bulletin 757–30A0018, Revision 1, dated September 17, 1998; or Boeing Service Bulletin 757–30A0018, Revision 2, dated September 9, 1999.

Alternative 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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

Special Flight Permits

(g) 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.

Incorporation by Reference

(h) Except as provided by paragraphs (a) and (b) of this AD, the modifications shall be done in accordance with Boeing Service Bulletin 757–76–1, dated May 18, 1984; Boeing Service Bulletin 757–76–0005, dated May 5, 1988; Boeing Alert Service Bulletin 757–30A0018, Revision 1, dated September 17, 1998; and Boeing Service Bulletin 757–30A0018, Revision 2, dated September 9, 1999. This incorporation by reference was approved previously by the Director of the Federal Register as of February 7, 2000 (65 FR 1, January 3, 2000). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on March 22, 2000.

Appendix 1.—Thrust Control Cable Inspection Procedure

1. General

A. Clean the cables, if necessary, for the inspection, in accordance with Boeing 757 Maintenance Manual 12–21–31.

B. Use these procedures to verify the integrity of the thrust control cable system. The procedures must be performed along the entire cable run for each engine. To ensure verification of the portions of the cables which are in contact with pulleys and quadrants, the thrust control must be moved by operation of the thrust and/or the reverse thrust levers to expose those portions of the cables.

C. The first task is an inspection of the control cable wire rope. The second task is an inspection of the control cable fittings. The third task is an inspection of the pulleys.

Note: These three tasks may be performed concurrently at one location of the cable system on the airplane, if desired, for convenience.

2. Inspection of the Control Cable Wire Rope

A. Perform a detailed visual inspection to ensure that the cable does not contact parts other than pulleys, quadrants, cable seals, or grommets installed to control the cable routing. Look for evidence of contact with other parts. Correct the condition if evidence of contact is found.

Note: For the purposes of this procedure, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

B. Perform a detailed visual inspection of the cable runs to detect incorrect routing, kinks in the wire rope, or other damage. Replace the cable assembly if:

(1) One cable strand had worn wires where one wire cross section is decreased by more than 40 percent (see Figure 1),

(2) A kink is found, or

(3) Corrosion is found.

C. Perform a detailed visual inspection of the cable: To check for broken wires, rub a cloth along the length of the cable. The cloth catches on broken wires.

(1) Replace the 7x7 cable assembly if there are two or more broken wires in 12 continuous inches of cable or there are three or more broken wires anywhere in the total cable assembly.

(2) Replace the 7x19 cable assembly if there are four or more broken wires in 12 continuous inches of cable or there are six or more broken wires anywhere in the total cable assembly.

3. Inspection of the Control Cable Fittings

A. Perform a detailed visual inspection to ensure that the means of locking the joints are intact (wire locking, cotter pins, turnbuckle clips, etc.). Install any missing parts.

B. Perform a detailed visual inspection of the swaged portions of swaged end fittings to detect surface cracks or corrosion. Replace the cable assembly if cracks or corrosion are found.

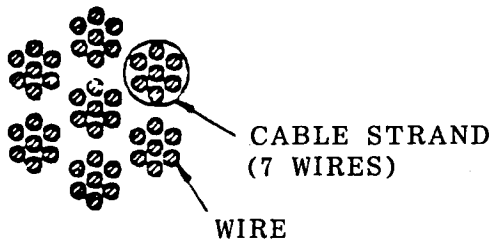
C. Perform a detailed visual inspection of the unswaged portion of the end fitting. Replace the cable assembly if a crack is visible, if corrosion is present, or if the end fitting is bent more than 2 degrees.

D. Perform a detailed visual inspection of the turnbuckle. Replace the turnbuckle if a crack is visible or if corrosion is present.

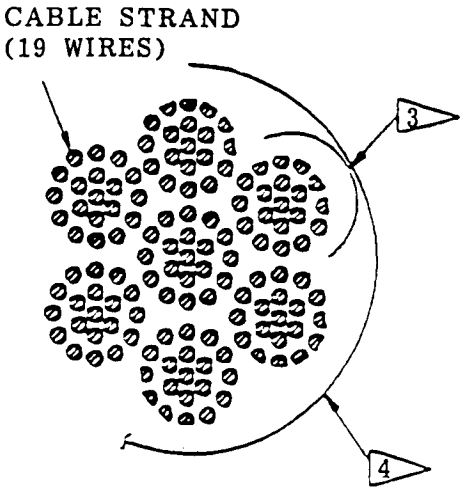
4. Inspection of Pulleys

A. Perform a detailed visual inspection to ensure that pulleys are free to rotate. Replace pulleys which are not free to rotate.

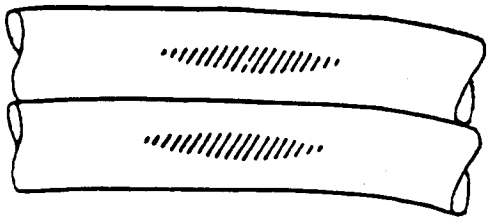
BILLING CODE 4910–13–U



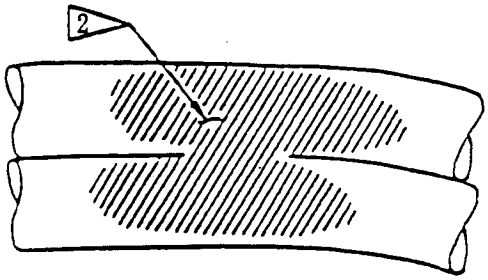
7x7 CABLE



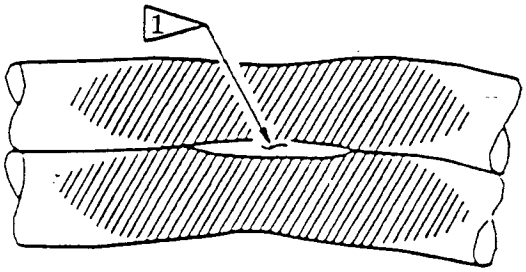
7x19 CABLE



EACH OUTER WIRE WORN
LESS THAN 50%
(WORN AREAS NOT BLENDED)



EACH OUTER WIRE WORN 40-50%
(WORN AREAS ARE BLENDED)



EACH WIRE IS WORN
MORE THAN 50%

1 SPACE BETWEEN WIRES

2 WEAR CONDITION THAT CAUSES BLENDED SURFACES BETWEEN WIRES

3 OUTER WIRE WEAR AREA ON CABLE STRAND. SPACE BETWEEN WIRES 1 OR FULLY BLENDED SURFACE 2 OVER APPROXIMATELY SIX WIRES IS AN INDICATION OF 50 PERCENT WIRE WEAR

4 CABLE WEAR CAN OCCUR ON ONE SIDE ONLY OR ON FULL CIRCUMFERENCE. CABLE WEAR CAN EXTEND ALONG THE CABLE FOR A DISTANCE EQUAL TO THE USUAL CABLE TRAVEL

FIGURE 1

Issued in Renton, Washington, on March 1, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–5459 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AWP–26]

Establishment of Class E Airspace; Big Bear City, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes an Class E airspace area at Big Bear City, CA. The establishment of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 26 at Big Bear City Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the GPS RWY 26 SIAP to Big Bear City Airport. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Big Bear City Airport, Big Bear City, CA.

EFFECTIVE DATE: 0901 UTC April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6539.

SUPPLEMENTARY INFORMATION:

History

On December 29, 1999, the FAA proposed to amend 14 CFR part 71 by establishing a Class E airspace area at Big Bear City, CA (64 FR 72969). Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the GPS RWY 26 SIAP at Big Bear City Airport. This action will provide adequate controlled airspace for aircraft executing the GPS RWY 26 SIAP at Big Bear City Airport, Big Bear City, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations for airspace extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes a Class E airspace area at Big Bear City, CA. The development of a GPS RWY 26 SIAP has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 26 SIAP at Big Bear City Airport, Big Bear City, CA.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

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

* * * * *

AWP CA E5 Big Bear City, CA [New]

Big Bear City, CA

(Lat. 34°15′49″ N, long. 116°51′16″ W)

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Big Bear City Airport.

* * * * *

Dated: Issued in Los Angeles, California, on February 23, 2000.

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 00–5490 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960–AE56

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Evaluating Opinion Evidence

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising the Social Security and Supplemental Security Income (SSI) regulations concerning the evaluation of medical opinions to clarify how administrative law judges and the Appeals Council are to consider opinion evidence from State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult in claims for disability benefits under titles II and XVI of the Social Security Act (the Act). We are also defining and clarifying several terms used in our regulations and deleting other terms.

EFFECTIVE DATE: These rules are effective April 6, 2000.

FOR FURTHER INFORMATION CONTACT: Georgia E. Myers, Acting Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, 1–410–965–3632, or TTY 1–800–966–5609. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION: The Act provides, in title II, for the payment of

disability benefits to persons insured under the Act. Title II also provides, under certain circumstances, for the payment of 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 persons. In addition, the Act provides, in title XVI, for SSI payments to persons who are aged, blind, or disabled and who have limited income and resources.

For adults under both the title II and title XVI programs (including persons claiming child's insurance benefits based on disability under title II), ''disability'' means the inability to engage in any substantial gainful activity. For an individual under age 18 claiming SSI benefits based on disability, ''disability'' means that an impairment(s) causes ''marked and severe functional limitations.'' (Our regulations explain at § 416.902 that ''Marked and severe functional limitations, when used as a phrase, * * * is a level of severity that meets or medically or functionally equals the severity of a listing in the Listing of Impairments in appendix 1 of subpart P of part 404 * * *.'') Under both title II and title XVI, disability must be the result of a 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.

Explanation of Revisions

Simplification and Clarification of Terms

These final regulations define and clarify several terms that have been used in our regulations, and delete other terms. Our prior regulations used several terms to refer to sources of medical evidence. Regulations §§ 404.1502 and 416.902, ''General definitions and terms for this subpart,'' defined the terms ''source of record,'' ''medical sources'' (which included ''consultative examiners''), and ''treating source.'' These terms were used in various sections of the regulations in subpart P of part 404 and subpart I of part 416, chiefly §§ 404.1527 and 416.927, ''Evaluating medical opinions about your impairment(s) or disability.'' In addition, §§ 404.1519 and 416.919 used the phrase ''a treating physician or psychologist, another source of record, or an independent source.'' Regulations §§ 404.1527 and 416.927 also employed the terms ''nontreating source'' and ''nonexamining source.''

In paragraph (a) of §§ 404.1513 and 416.913 of our regulations, we say that we need reports about the individual's impairments from ''acceptable medical sources'' and we identify the sources that are acceptable medical sources. We need various terms for types of acceptable medical sources in only three, specific instances: (1) When we explain the preference we give to obtaining evidence from treating sources; (2) when we explain the preference we give to treating sources to perform consultative examinations; and (3) in our rules for weighing opinions from acceptable medical sources. In the first two cases, the only definition that is needed is the definition of a ''treating source.'' In the last case, relevant distinctions are needed between treating sources, nontreating sources (*i.e.,* acceptable medical sources, such as some consultative examiners, who have examined an individual but not provided treatment), and nonexamining sources (*i.e.,* acceptable medical sources who have provided evidence but who have not treated or examined the individual).

Therefore, while the term ''medical source'' includes the term ''acceptable medical source,'' we are simplifying and clarifying the specific terms we use to describe various acceptable medical sources of evidence, including medical opinion evidence (*i.e.,* opinions on the nature and severity of an individual's impairment(s)—see §§ 404.1527(a)(2) and 416.927(a)(2)) and other opinions (*e.g.,* opinions on issues reserved to the Commissioner of Social Security (the Commissioner)—see §§ 404.1527(e) and 416.927(e))—by using only four terms: ''Treating source,'' ''nontreating source,'' ''nonexamining source,'' and an overall term, ''acceptable medical source,'' which includes all three types of sources. These clarifications do not change our current policy, but are only intended to clarify our intent.

To do this, we now define the term ''acceptable medical source'' in §§ 404.1502 and 416.902. This is a term we have used for many years in §§ 404.1513(a) and 416.913(a). We are also redefining the term ''medical sources'' to mean acceptable medical sources or other health care providers who are not ''acceptable medical sources,'' to clarify our intent in certain regulations sections. For instance, under the rules in §§ 404.1519, 404.1519g, 416.919, and 416.919g, we may select a qualified medical source who is not an ''acceptable medical source'' to perform a consultative examination; *e.g.,* an audiologist. We are deleting speech and language pathologist from this example, which appeared in the Notice of Proposed Rulemaking (NPRM), published in the **Federal Register** on September 25, 1997 (62 FR 50271), because an NPRM published October 9, 1998 (63 FR 54417) proposes to add qualified speech and language pathologists as acceptable medical sources.

In addition, a distinction between ''medical source'' and ''acceptable medical source'' is necessary because ''an acceptable medical source'' is required to establish the existence of a medically determinable impairment. See §§ 404.1513(a) and 416.913(a). Also, only an ''acceptable medical source'' can be considered to be a ''treating source'' for purposes of giving controlling weight to treating source medical opinion. See § 404.1527(d)(2) and 416.927(d)(2). The distinction between ''acceptable medical source'' and ''medical source'' is simply to facilitate application of the two longstanding rules noted above and is in no way intended to imply anything derogatory about medical sources that are not ''acceptable medical sources.''

We are also adding definitions for the terms ''nonexamining source'' and ''nontreating source,'' which have been used in §§ 404.1527 and 416.927, but which previously were not defined in our regulations. We are clarifying the definition of ''treating source'' to include the other acceptable medical sources identified in §§ 404.1513(a) and 416.913(a) in addition to licensed physicians and licensed or certified psychologists, and, consistent with the use of the word ''evaluation'' in the first sentence of the definition in §§ 404.1502 and 416.902, to clarify that a source who only examines and evaluates an individual on an ongoing basis, but who does not provide any treatment, may also be a ''treating source.''

We are deleting the term ''source of record'' because sources previously included in the definition of that term are now included in the definition of the terms ''acceptable medical source'' or ''medical sources,'' and the term ''source of record'' is not needed.

Clarification of §§ 404.1527 and 416.927

Consistent with our original intent, we are clarifying paragraph (f) of §§ 404.1527 and 416.927. As we explained in the preamble to the rules published in the **Federal Register** on August 1, 1991 (56 FR 36932, 36937), the purpose of paragraph (f) is to: (1) Explain how we consider evidence from various kinds of nonexamining sources (*e.g.,* State agency medical and psychological consultants, other program physicians and psychologists, and medical advisors—now called ''medical experts''—at the administrative law judge and Appeals

Council levels of administrative review); (2) clarify the role of the State agency medical and psychological consultant at the various levels of the administrative review process; and (3) codify in regulations our longstanding policy that, because State agency medical and psychological consultants are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation, administrative law judges will consider their findings with regard to the nature and severity of an individual's impairment as opinions of nonexamining physicians and psychologists.

Sections 404.1527(f) and 416.927(f) of the regulations have stated since 1991 that administrative law judges and the Appeals Council are required to consider State agency medical and psychological consultant findings about the existence and severity of an individual's impairment(s), the existence and severity of an individual's symptoms, whether an individual's impairment(s) meets or equals the requirements for any impairment listed in appendix 1 to subpart P of part 404, and an individual's residual functional capacity. We restated and clarified these provisions of the regulations in Social Security Ruling 96–6p, ''Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence.'' (61 FR 34466, July 2, 1996.)

Consistent with our statements in the preamble to the regulations published in 1991 and in Social Security Ruling 96–6p, we are making the following revisions to paragraph (f) of §§ 404.1527 and 416.927. We are also making conforming revisions to paragraphs (d)(6) and (e). None of these revisions changes our current policies.

Because paragraph (f) refers to the rules in paragraphs (a) through (e) of §§ 404.1527 and 416.927, which collectively address both medical opinions (as described in paragraph (a)(2) of §§ 404.1527 and 416.927) and opinions on issues reserved to the Commissioner, it is inaccurate to refer in paragraph (f) solely to opinions on the ''nature and severity of a person's impairment(s).'' Therefore, we are deleting the phrase ''on the nature and severity of your impairments'' from the introductory text of paragraph (f). We are also revising paragraph (f)(2) to provide more detail on how administrative law judges are to consider the opinions of State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult. We have divided paragraph (f)(2) into an introductory paragraph and new paragraphs (f)(2)(i) through (f)(2)(iii), which provide a more detailed explanation of how opinions from these sources are to be evaluated. The introductory text of paragraph (f)(2) and, when appropriate, paragraphs (f)(2)(i) through (f)(2)(iii), now include reference to ''other program physicians and psychologists'' and the term ''medical expert'' for consistency with the language in paragraph (b)(6) of §§ 404.1512 and 416.912.

We are clarifying in new paragraph (f)(2)(i) of §§ 404.1527 and 416.927 that, because State agency medical and psychological consultants and other program physicians and psychologists are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation, administrative law judges must consider findings of these experts, except for the ultimate determination of disability, when administrative law judges make their decisions. We now state in new paragraph (f)(2)(ii) that when administrative law judges evaluate the findings of these experts, they will use the relevant factors set forth in paragraphs (a) through (e) of §§ 404.1527 and 416.927.

In paragraph (f)(2)(ii) of §§ 404.1527 and 416.927 we are also providing examples of the kinds of factors that an administrative law judge must consider when evaluating the findings of State agency medical and psychological consultants or other program physicians and psychologists. We are also clarifying that administrative law judges are required to explain in their decisions the weight given to any opinion of a State agency medical or psychological consultant or other program physician or psychologist, as they must do for any opinions from treating sources, nontreating sources, and nonexamining sources who do not work for us. We have added language that did not appear in the NPRM (see 62 FR 50272, September 25, 1997) to clarify that when treating source opinion is given controlling weight, it is not necessary for the administrative law judge to provide an explanation of the weight given to the opinion of a State agency medical or psychological consultant. For purposes of clarity, we have also made a revision to the first sentence of paragraph (f)(2)(ii) to refer to administrative law judges in the singular, rather than the plural.

In new paragraph (f)(2)(iii) of §§ 404.1527 and 416.927, we are substituting the term ''medical expert'' for ''medical advisor'' for the reason explained below in the discussion of §§ 404.1512 and 416.912. We are also making it clear in new paragraph (f)(2)(iii) of §§ 404.1527 and 416.927 that, when administrative law judges consider opinions from medical experts they consult, they will use the rules in paragraphs (a) through (e) of §§ 404.1527 and 416.927.

We are also amending paragraph (d)(6) of §§ 404.1527 and 416.927 by adding two examples of other factors that can affect the weight we give to a medical opinion. One example of a relevant factor that we proposed in the proposed rules to add to §§ 404.1527(d)(6) and 416.927(d)(6) was the amount of Social Security disability program expertise an acceptable medical source has. However, as a result of public comments received on this proposed example, we are revising the example to give consideration to the amount of understanding that an acceptable medical source has of our disability programs and their evidentiary requirements, regardless of the source of that understanding, as a relevant factor that is consistent with the examples in final paragraph (f)(2)(ii). This includes acceptable medical sources that are current or former State agency medical or psychological consultants and other program physicians and psychologists. This also includes those acceptable medical sources that have gained their understanding of our disability programs and their evidentiary requirements in other ways (*e.g.*, through continuing medical education or experience in conducting consultative examinations for us).

Another example of a relevant factor that we proposed to add was whether an acceptable medical source reviewed the individual's entire case record. However, based on the public comments received on this proposed example, we are revising the example to provide that the extent to which an acceptable medical source is familiar with the other information in the individual's case record is a relevant factor. Both of these are examples of relevant factors that we will consider in deciding the weight to give to a medical opinion from any acceptable medical source.

We are also amending paragraph (e) of §§ 404.1527 and 416.927 by adding an introductory paragraph to distinguish opinions on issues reserved to the Commissioner from medical opinions, and by designating the last sentence of paragraph (e)(2) as new final paragraph (e)(3) to make it clear that the rule in new final paragraph (e)(3) applies to an

opinion about disability described in paragraph (e)(1) as well as to an opinion on any issue reserved to the Commissioner described in paragraph (e)(2).

Other Changes

Sections 404.1502 and 416.902 General Definitions and Terms for This Subpart

In §§ 404.1502 and 416.902, we are clarifying, consistent with §§ 404.602 and 416.302, the definition of the term ''you'' to more accurately indicate that the definition includes the person for whom an application is filed, because the person who files an application may be filing it on behalf of another person.

We are deleting reference to the ''Secretary'' from § 416.902 to reflect § 702(a)(5) of the Social Security Act as amended by § 102 of the Social Security Independence and Program Improvements Act of 1994, Public Law 103–296, enacted on August 15, 1994, which transferred from the Secretary of Health and Human Services to the Commissioner of Social Security the authority to issue regulations. We are revising the language from how it appeared in the NPRM (62 FR 50272, September 25, 1997) to clarify the change in authority from the Secretary of Health and Human Services to the Commissioner.

Sections 404.1512 and 416.912 Evidence of Your Impairment

We are amending §§ 404.1512 and 416.912 by revising paragraph (b)(6) to delete the word ''certain'' to clarify that every finding made by State agency medical or psychological consultants and other program physicians or psychologists and the opinions of medical experts, other than the ultimate determination of whether an individual is disabled, is evidence that an administrative law judge and the Appeals Council must consider at the administrative law judge and Appeals Council levels of review. We are also changing the term ''medical advisor'' to ''medical expert'' because the latter is the term we currently use to describe these nonexamining sources we consult at the administrative law judge and Appeals Council levels.

Sections 404.1513 and 416.913 Medical Evidence of Your Impairment

We are revising paragraph (c) of §§ 404.1513 and 416.913 to codify our policy interpretation that, at the administrative law judge and Appeals Council levels of review, ''statements about what you can still do,'' which we also call ''medical source statements,'' include residual functional capacity assessments made by State agency medical and psychological consultants and other program physicians and psychologists. This is because they become opinion evidence of nonexamining physicians and psychologists at the hearings and appeals levels. (See Social Security Ruling 96–6p, 61 FR 34466, 34468.)

The regulations describe two distinct kinds of assessments of what an individual can do despite the presence of a severe impairment(s). The first is described in §§ 404.1513(b) and (c) as a ''statement about what you can still do despite your impairment(s)'' made by an individual's medical source and based on that source's own medical findings. This ''medical source statement'' is an opinion submitted by a medical source as part of a medical report. The second category of assessments is the residual functional capacity assessment described in §§ 404.1545, 404.1546, 416.945, and 416.946 which is the adjudicator's ultimate finding of ''what you can still do despite your limitations.'' Even though the adjudicator's residual functional capacity assessment may adopt the opinions in a medical source statement, they are not the same thing. A medical source statement is evidence that is submitted to the Social Security Administration (SSA) by an individual medical source reflecting the source's opinion based on his or her own knowledge, while a residual functional capacity assessment is the adjudicator's ultimate finding based on a consideration of this opinion and all the other evidence in the case record about what an individual can do despite his or her impairment(s). (See Social Security Ruling SSR 96–5p).

Because paragraphs (b) and (c) relate to the reports about an individual's impairment(s) needed from acceptable medical sources described in paragraph (a), we are clarifying paragraphs (b)(6), (c)(1) and (c)(2) of § 404.1513 and paragraphs (b)(6), (c)(1), (c)(2), and (c)(3) of § 416.913 to refer to findings and opinions of the ''acceptable medical source,'' rather than findings and opinions of the ''medical source.'' We are also clarifying paragraphs (c)(1) and (c)(2) of § 416.913 by indicating that they pertain only to adults, to make the construction of these paragraphs parallel to that of paragraph (c)(3), which pertains only to children.

Sections 404.1519 and 416.919 The Consultative Examination

For the reasons explained above about the definition of the term ''treating source,'' we are revising the first sentence of §§ 404.1519 and 416.919 to substitute the terms ''treating source'' and ''medical source'' for the terms ''treating physician or psychologist,'' ''source of record,'' and ''independent source.''

Sections 404.1519g and 416.919g Who We Will Select To Perform a Consultative Examination

We are revising paragraph (a) of these sections to refer in the last sentence to §§ 404.1513 and 416.913, rather than §§ 404.1513(a) and 416.913(a), for the reasons explained above about the revised definition of ''medical source'' in §§ 404.1502 and 416.902. For the same reason, we are also changing the phrase ''physician or psychologist'' in the first sentence of paragraph (c) to ''medical source.''

Sections 404.1519h and 416.919h Your Treating Source

We are revising the heading and text of these sections to substitute the term ''treating source'' for the term ''treating physician or psychologist.''

Sections 404.1519i and 416.919i Other Sources for Consultative Examinations

We are revising the heading and text of these sections to substitute the term ''medical source'' for the term ''source'' and the term ''treating source'' for the term ''treating physician or psychologist.''

Sections 404.1519j and 416.919j Objections to the Medical Source Designated To Perform the Consultative Examination.

We are revising the heading and text of these sections to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above.

Sections 404.1519k and 416.919k Purchase of Medical Examinations, Laboratory Tests, and Other Services.

We are revising the introductory paragraph of these sections to use the term ''medical source,'' rather than the phrase ''licensed physician or psychologist, hospital or clinic'' for the reasons explained above.

Sections 404.1519m and 416.919m Diagnostic Tests or Procedures

We are revising the first sentence of these sections to substitute the term ''treating source'' for the term ''treating physician or psychologist.'' We are also revising the last sentence to use the term ''medical source designated to perform the consultative examination,'' rather than the phrase ''consultative examining

physician or psychologist,'' for the reasons explained above.

Sections 404.1519n and 416.919n Informing the Medical Source of Examination Scheduling, Report Content, and Signature Requirements

We are revising the heading, introductory paragraph, and paragraphs (a), (b), (c), and (e) of these sections to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above. We are deleting the word ''examining'' from the previous regulations and NPRM because sources that examine or have examined a claimant are included in the new definition of the term ''medical source.'' We are also adding a heading to paragraph (a) for consistency with the other paragraphs in this section. In addition, we are revising paragraph (c)(6) to insert language that we originally intended to include in the 1991 regulations ''Standard for Consultative Examinations and Existing Medical Evidence'', as explained in our statements in the preamble to those regulations (56 FR 36932, 36934, August 1, 1991), but inadvertently omitted, to ensure that although medical source statements about what an individual can still do despite his or her impairment(s) should ordinarily be requested as part of the consultative examination process, the absence of such a statement in a consultative examination report does not make the report incomplete.

Sections 404.1519o and 416.919o When a Properly Signed Consultative Examination Report Has Not Been Received

We are revising paragraphs (a) and (b) of these sections to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above.

Sections 404.1519p and 416.919p Reviewing Reports of Consultative Examinations

We are revising paragraph (b) of these sections to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above. We are revising paragraph (c) to correct the grammar in the first sentence by substituting the word ''when'' for the word ''where.'' We are also substituting the term ''treating source'' for the term ''treating physician or psychologist.''

Sections 404.1519s and 416.919s Authorizing and Monitoring the Consultative Examination

We are revising paragraph (e)(2) of these sections to refer to a consultative examination provider's ''practice,'' rather than to a ''practice of medicine, osteopathy, or psychology,'' for the reasons explained above about the definition of ''medical source.'' For the same reasons, we now use the term ''medical sources'' in paragraph (f)(6), rather than the phrase ''physicians and psychologists.''

Sections 404.1527 and 416.927 Evaluating Opinion Evidence

We are changing the heading of §§ 404.1527 and 416.927 from ''Evaluating medical opinions about your impairment(s) or disability'' to ''Evaluating opinion evidence'' to more accurately identify the content of these sections. Under §§ 404.1527(a)(2) and 416.927(a)(2), the term ''medical opinion'' means statements from acceptable medical sources that reflect judgments about the nature and severity of an individual's impairments, but §§ 404.1527 and 416.927 address other types of opinions too.

We are revising the third sentence of paragraph (d)(2) of §§ 404.1527 and 416.927 to clarify that the ''other factors'' referenced in paragraph (d)(6) will be considered along with the factors in paragraphs (d)(2)(i) and (ii) and paragraphs (d)(3) through (d)(5) of this section when we do not give a treating source's medical opinion controlling weight. As indicated by the introductory text to §§ 404.1527(d) and 416.927(d), exclusion of reference to paragraph (d)(6) was an inadvertent omission when the rule was published. (56 FR 36932, August 1, 1991.)

We are changing the heading of paragraph (e) in §§ 404.1527 and 416.927 to reflect that the Commissioner, not the Secretary of Health and Human Services, has the authority on these issues pursuant to section 702(a)(5) of the Act as amended by section 102 of the Social Security Independence and Program Improvements Act of 1994, Public Law 103–296, enacted on August 15, 1994. We are also changing the second sentence of paragraph (e)(2) to substitute the term ''medical sources'' for the phrase ''treating and examining sources'' to be consistent with the use of the term ''medical sources'' in the first sentence of paragraph (e)(2) and to clarify that we consider opinions from all medical sources on the issues described in the second sentence.

We are also shortening the heading of paragraph (f) of §§ 404.1527 and 416.927 to ''Opinions of nonexamining sources,'' consistent with the definitions in §§ 404.1502 and 416.902. For the same reason, we are substituting the term ''nonexamining sources'' for ''nonexamining physicians and psychologists'' in the first sentence of paragraph (f).

Public Comments

We published these regulatory provisions in the **Federal Register** as an NPRM on September 25, 1997 (62 FR 50270), and we provided the public with a 60-day comment period. The comment period closed on November 24, 1997. We received comments in response to this notice from 126 individuals and organizations. The commenters included Government agencies whose interests and responsibilities require them to have some expertise in the evaluation of medical evidence used in making disability determinations under titles II and XVI of the Act. They also included individuals with disabilities, support groups for individuals with disabilities, attorneys and non-attorney representatives, and legal services organizations that represent the interests of individuals with disabilities. In addition, we received comments from one medical association, physicians, and other medical professionals.

Because many of the comments were detailed, we condensed, summarized, or paraphrased them. We have tried to summarize the commenters' views accurately and to respond to all of the significant issues raised by the commenters that are within the scope of these rules.

Comment: One commenter recommended that the deadline for submission of comments on the proposed rules be extended, noting that the evaluation of opinion evidence is central to the determination of disability, and that the length and complexity of the proposed rules made comments on the proposed changes extremely difficult.

Response: The NPRM provided the 60-day period that is generally provided for public comments on a proposed rule. We considered the recommendation to extend this period; however, we decided that this was not necessary in view of the number of comments received within the 60-day period displaying in-depth review and consideration of the proposed rules. Moreover, we did not propose any revisions that would change our policies on the evaluation of opinion evidence, and most of the revisions in the

proposed rules merely improved the consistency of our terminology throughout the regulations.

Comment: Many of the comments concerned the quality of consultative examinations we purchase, including the qualifications of consultative examiners and support staff, their equipment, treatment of claimants, and the time spent in conducting some consultative examinations.

Response: Although these comments were outside the scope of the proposed rules, the quality of the consultative examinations we purchase is important to us, and we will consider the comments as we work with the State agencies to ensure quality examinations. We take very seriously our responsibility to do so, as outlined in §§ 404.1519 ff. and 416.919 ff. However, as we explain above, we are revising the paragraphs in §§ 404.1519 ff. and 416.919 ff. only to substitute the term ''medical source'' for the phrase ''physician or psychologist'' and to make minor technical revisions. We are not making substantive changes to the rules stated in §§ 404.1519 ff. and 416.919 ff. concerning the purchase of consultative examinations and the review of consultative examination reports to ensure the quality and appropriateness of the examinations.

Comment: Many commenters questioned our statement in §§ 404.1527(f)(2) and 416.927(f)(2) of the proposed rules that State agency medical and psychological consultants are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation, contending that this was an effort to introduce a new criterion to give more weight to the opinions of the State agency medical and psychological consultants. A number of other commenters observed that the statement of findings by the State agency physicians and psychologists are part of the disability determination at the initial and reconsideration levels of administrative review, and they questioned how findings made at one level by an agency adjudicator become expert opinion evidence at another level on the same case. One commenter also indicated that the use of the findings by an adjudicator at one level of administrative review as expert witness evidence at another level represents a conflict of interest.

Response: The statement in §§ 404.1527(f)(2) and 416.927(f)(2) of the proposed rules was taken from the preamble to the original publication of these rules in 1991. (''Standard for Consultative Examinations and Existing Medical Evidence'' (56 FR 36937, August 1, 1991)). Therefore, it is not a new criterion, only a clarification in the regulations of our original intent. As noted in the 1991 preamble, ''* * * State agency medical and psychological consultants are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation. Therefore, it has been our longstanding policy that administrative law judges will consider the findings of State agency medical and psychological consultants with regard to the nature and severity of a claimant's impairment as opinions of nonexamining physicians and psychologists.'' (56 FR 36937, August 1, 1991). We restated and clarified this policy in Social Security Ruling 96–6p, ''Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence.'' (61 FR 34466, July 2, 1996.) However, and as is discussed in more detail later in this preamble, when an administrative law judge or the Appeals Council considers the opinion of a State agency medical or psychological consultant, the weight that will be given to the opinion will depend on the degree to which the medical or psychological consultant provides a supporting explanation for the opinion.

These revisions do not represent a change in policy. It has been our longstanding policy that findings made by State agency medical and psychological consultants are considered opinion evidence at the hearing and Appeals Council levels. Since 1991, §§ 404.1527(f) and 416.927(f) have required administrative law judges and the Appeals Council to consider those findings of fact about the nature and severity of an individual's impairment(s) as opinion evidence of nonexamining physicians and psychologists. These requirements are based on the medical or psychological consultants' experience as health care professionals who are also experts in the evaluation of the medical issues in disability claims under the Act and recognize that we weigh medical opinions included in case records.

In response to the last commenter, the consideration of findings made by a State agency medical or psychological consultant at the initial or reconsideration level of administrative review as opinion evidence at the hearing level does not represent a conflict of interest. At the hearing level, administrative law judges consider the issues before them de novo. Therefore, when administrative law judges consider issues of disability, they are not bound by any findings made at the State agency in connection with the initial and reconsidered determinations.

Comment: Many of the commenters expressed a concern that the intent of the proposed rules was to negate or moderate the rules for weighing opinion evidence from treating sources that recognize the special intrinsic value of a treating source's relationship with the individual. In particular, concern was expressed about the revision to §§ 404.1527(d)(6) and 416.927(d)(6) that added two examples of other factors that can affect the weight we give to a medical opinion from an acceptable medical source. The two factors noted were the amount of Social Security disability programs expertise the acceptable medical source has, and whether the acceptable medical source reviewed the individual's entire case record before providing a medical opinion.

Response: It was not and is not our intent to negate or moderate the rules for weighing opinions from treating sources. We continue to provide in §§ 404.1527(d) and 416.927(d) that ''Generally we give more weight to opinions from your treating sources, since these sources are likely to be the medical professionals most able to provide a detailed, longitudinal picture of your medical impairment(s) and may bring a unique perspective to the medical evidence that cannot be obtained from the objective medical findings alone or from reports of individual examinations, such as consultative examinations or brief hospitalizations.'' We also continue to provide that we will give treating source medical opinions on the nature and severity of an impairment ''controlling weight'' if we find that the opinion is well-supported by medically acceptable clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in the case record. As we explain above, the two examples being added to paragraph (d)(6) of §§ 404.1527 and 416.927 are simply examples of factors that can affect the weight we give a medical opinion. We believe that they are valid considerations along with all of the other factors (including treatment relationship) we consider when we weigh medical opinions. In response to public comments, however, we are revising the two examples that appeared in the NPRM. We are revising the first example to give consideration to the amount of understanding that an acceptable medical source has of our

disability programs and their evidentiary requirements, regardless of the source of that understanding. We are revising the second example to provide that the extent to which an acceptable medical source is familiar with the other information in the individual's case record is a relevant factor that we will consider.

Comment: Many commenters questioned why we proposed to add a rule to §§ 404.1527(d) and 416.927(d) to consider the amount of Social Security disability programs expertise an acceptable medical source has. They expressed the opinion that, with few exceptions, State agency medical and psychological consultants will be the only medical sources with experience working with the disability program. Another commenter argued that medical experts should be treated as experts because of their knowledge of medicine, not their knowledge of the law. One commenter asked what ''disability program expertise'' is and how it would be measured. Another commenter stated that a medical source's expertise on the subject of a particular individual's impairments or limitations should be evaluated based on his or her knowledge of the individual and the type of medical impairment experienced by the individual, not by his or her knowledge of the Social Security law and regulations.

Response: As we indicated in the preamble to the proposed rules on September 25, 1997 (62 FR 50272), we proposed to list an acceptable medical source's ''Social Security disability programs expertise'' as an example of the ''other factors'' referenced in §§ 404.1527(d)(6) and 416.927(d)(6) that we will consider in weighing an acceptable medical source's medical opinion. As indicated in the preamble, exclusion of the reference to paragraph (d)(6) was an inadvertent omission when the rules on consideration of medical evidence were published in 1991. However, we did not intend that an employment or contractual relationship with SSA or a State agency as a medical or psychological consultant would be the sole means to obtain ''Social Security disability programs expertise.'' We agree that there will be acceptable medical sources that have never been in such a relationship with SSA who will have developed expertise in Social Security disability programs. For example, some medical sources will have obtained such expertise through continuing medical education, or as a result of conducting consultative examinations for us. (See §§ 404.1519n and 416.919n, which state that the ''medical sources who perform consultative examinations will have a good understanding of our disability programs and their evidentiary requirements.'') Therefore, we are revising §§ 404.1527(d)(6) and 416.927(d)(6) further to delete ''Social Security disability programs expertise'' as an example of the ''other factors'' reference in §§ 404.1527(d)(6) and 416.927(d)(6), and to add the amount an acceptable medical source's ''understanding of our disability programs and their evidentiary requirements'' as an example of one of the factors we will consider in weighing the acceptable medical source's medical opinion, regardless of the source of that understanding.

Comment: A number of commenters expressed a concern that nonexamining State agency medical and psychological consultants may not have an understanding of ''emerging illnesses,'' such as Chronic Fatigue Syndrome, fibromyalgia, multiple chemical sensitivities, or lupus erythematosus. Several of these commenters indicated, as well, that many regular treating sources do not have the understanding of these illnesses that private researchers and specialists do, and that more weight should be given to the opinions of those specialists who are treating an individual for these illnesses.

Response: We believe that the regulations take this concern into account. The regulations provide for a variety of factors to be applied in evaluating medical opinions, depending on the facts of the individual case. For example, §§ 404.1527(d)(5) and 416.927(d)(5) state that ''We generally give more weight to the opinion of a specialist about medical issues related to his or her area of specialty than to the opinion of a source who is not a specialist.'' Therefore, when we do not give the treating source's opinion controlling weight (for example if a specialist submits evidence that is inconsistent with the treating source's opinion), we can give more weight in an appropriate case to the opinion of a specialist on the individual's particular medical impairment. As we have already noted, the weight to which a medical or psychological consultant's opinion will be entitled depends on these same factors.

Comment: One commenter noted that giving weight to Social Security program expertise and review of the entire case file and requiring administrative law judges to explain in the decision the weight given to the opinions of a State agency medical or psychological consultant reinforces the basic tenets of Process Unification. Another commenter elaborated on this point, noting that the revision to §§ 404.1527 and 416.927 clarifying our longstanding policy that administrative law judges must consider State agency medical and psychological consultant findings as opinion evidence is an important step in Social Security's efforts to unify the disability process and to restore the program's credibility with the public. The commenter noted that two different processes are perceived now, the initial/reconsideration process in the State agency and the administrative law judge hearing.

Response: As the commenters have observed, these revisions are part of our current Process Unification initiative, which is intended to achieve similar and correct results on similar cases at all stages of the administrative review process for claims for disability benefits under the Act, by ensuring that decisionmakers at each stage are following consistent policies in deciding these claims. This is expected to result in the allowance of claims that should be allowed at the earliest possible level of administrative review, potentially providing favorable decisions at an earlier point for disabled claimants, as well as reducing both the rate of appeal and the rate of allowance on appeal for these claims.

Comment: A number of commenters believed that expertise in Social Security's rules is not something that can be presumed; the expertise of the individual nonexamining doctor would need to be proven in every case in which this factor is an issue. These comments noted that, at the very least, claimants and their representatives must be provided with documentation of the qualifications, training, and expertise of the State agency medical sources.

Response: The Act and regulations recognize State agency medical and psychological consultants as experts in Social Security disability programs. The rules in §§ 404.1527(f) and 416.927(f) require administrative law judges and the Appeals Council to consider the State agency consultants' findings of fact about the nature and severity of an individual's impairment(s) as opinions of nonexamining physicians and psychologists. When an administrative law judge admits a medical opinion into the case record as an exhibit for consideration, including a medical opinion from a State agency medical or psychological consultant that was considered a finding at any earlier level in the administrative review process, the administrative law judge will also admit into the record a statement of the medical source's professional

qualifications as required by our operating instructions.

Comment: A number of commenters questioned why we proposed to add an example to §§ 404.1527(d) and 416.927(d) indicating that whether an acceptable medical source reviewed the entire case before providing a medical opinion is a relevant factor to be considered in evaluating the source's medical opinion. They also questioned whether medical sources other than State agency medical and psychological consultants will have an opportunity to review the individual's entire case record before they provide a medical opinion.

One State agency commenter fully supported the value of a complete file review when assigning weight to medical opinions, noting that medical opinions are too often given adjudicative weight that may be countered by objective evidence or other expert opinion evidence elsewhere in the file.

Response: As with the example of an acceptable medical source's ''understanding of our disability programs and their evidentiary requirements,'' we are revising this proposed example and listing whether the acceptable medical source is familiar with the other information in the individual's case record as another example of the ''other factors'' referenced in §§ 404.1527(d)(6) and 416.927(d)(6) that we will consider in weighing an acceptable medical source's medical opinion. We believe that it is appropriate for the adjudicator to consider whether an acceptable medical source is familiar with the other information in the individual's case record because this is a relevant factor that can properly affect the weight we give to a medical opinion. An individual and his or her representative have a right to review and obtain copies of the materials in the individual's case record, *e.g.*, for review by the individual's treating or other medical source, if this should be desired.

Comment: One commenter noted that it is the practice for administrative law judges to require ''fresh'' evidence, and thus current evidence will be submitted just weeks prior to the hearing. The commenter noted that whatever evidence was available to the State agency medical or psychological consultant would not be current and that the administrative law judge would consider the additional evidence.

Response: We agree that the record before the administrative law judge will often include additional evidence beyond what the State agency medical or psychological consultant considered in his or her medical opinion. As the example in paragraph (d)(6) of §§ 404.1527 and 416.927 indicates, concerning whether an acceptable medical source is familiar with the other information in the individual's case record, this factor will be considered when the administrative law judge or Appeals Council weighs medical opinions from a State agency medical or psychological consultant or other acceptable medical source. This may limit the weight that can be given to a medical opinion from a State agency medical or psychological consultant and the period to which the opinion applies.

Comment: A number of commenters indicated their concern with the manner in which a State agency medical or psychological consultant's medical opinion may be provided in the record. Some of the commenters noted that these opinions frequently are expressed as boxes checked on a form, with little or no rationale, or as a statement of medical findings from records in the file with no other explanation for why the residual functional capacity assessment provided would flow from these findings, or why these opinions from State agency medical or psychological consultants are in conflict with the opinions of treating or examining physicians. They noted that there is no reasonable basis for giving further weight to such a cursory report lacking a substantive rationale.

Response: The revisions we are making do not represent a change in our longstanding policy that the adjudicator should give little weight to an opinion from any source, including a State agency medical or psychological consultant, that is poorly explained and not supported by the evidence in the record. Sections 404.1527(d)(3) and 416.927(d)(3) have stated and continue to state: ''The better an explanation a source provides for an opinion, the more weight we will give that opinion. Furthermore, because nonexamining sources have no examining or treating relationship with you, the weight we give their opinions will depend on the degree to which they provide supporting explanations for their opinions.'' We will evaluate the degree to which these opinions consider all of the pertinent evidence in your claim, including opinions of treating and other medical sources.

Comment: A number of commenters believed that the claimant has a right to cross-examine the State agency medical or psychological consultant when his or her opinions become evidence to be considered by an administrative law judge. Some of the commenters noted that administrative law judges have been reluctant to issue subpoenas for State agency medical or psychological consultants to testify, presumably because this would interfere with the State agency's ability to process disability claims in a timely and efficient manner. Some of the attorneys and other claimants' representatives who commented stated their belief that they would have to increase their requests for subpoenas if administrative law judges consider State agency medical and psychological consultant opinions in their decisions.

Response: The revisions we are making do not represent a change in policy. Sections 404.1527(f) and 416.927(f) of the regulations have stated since 1991 that medical opinions from State agency medical and psychological consultants are considered by administrative law judges and the Appeals Council, and we restated and clarified these provisions of the regulations in Social Security Ruling 96–6p in 1996. We do not anticipate that these final rules will increase the instances in which a claimant would wish to compel a State agency medical or psychological consultant to appear and testify (or to amplify his or her opinion through a voluntary appearance or responses to interrogatories.) These final rules also do not change the standards in our regulations under which administrative law judges determine whether to issue subpoenas. Paragraph (d)(1) of §§ 404.950 and 416.1450 states that administrative law judges may issue subpoenas in those situations ''[w]hen it is reasonably necessary for the full presentation of a case.'' Paragraph (d)(2) provides that parties to a hearing may request a subpoena to compel testimony or documents, providing they file a written request with the administrative law judge at least 5 days before the hearing date. This request must justify the need for a subpoena by stating the ''important facts that the witness or document is expected to prove'' and by indicating ''why these facts could not be proven without issuing a subpoena.''

Comment: Two commenters expressed concern regarding our clarification in §§ 404.1502 and 416.902 of the term ''medical source'' and the concept of a ''qualified medical source,'' when these terms are used in §§ 404.1519g and 416.919g in discussing the purchase of consultative examinations. They agreed that in many situations an audiologist may be the appropriate source to perform a consultative examination, but questioned whether the proposed rules are clear on whether other sources such as chiropractors or social workers are

also appropriate sources to perform these examinations.

Response: As we explain above, and as we explained in the preamble to the NPRM in discussing the amendments to §§ 404.1502 and 416.902 (62 FR 50270), under the rules in §§ 404.1519, 404.1519g, 416.919, and 416.919g, we may select a qualified medical source who is not an ''acceptable medical source'' to perform a consultative examination; *e.g.*, an audiologist. As §§ 404.1519g(b) and 416.919g(b) provide, by ''qualified'' we mean that the medical source must be currently licensed in the State and have the training and experience to perform the type of examination or test we will request; the medical source must not be barred from participation in our program under the provisions of §§ 404.1503a and 416.903a; and the medical source must also have the equipment required to provide an adequate assessment and record of the existence and level of severity of the claimant's alleged impairments. Any medical source, which can include a chiropractor or social worker, that meets the requirements for being ''qualified'' under §§ 404.1519g and 416.919g may be an appropriate source to conduct a consultative examination.

Comment: One commenter questioned our inclusion of psychologists as ''acceptable medical sources.'' The commenter noted that psychologists do not have medical training, they are not licensed to practice medicine, and they do not provide medical treatment. The commenter proposed that we use the term ''medical and psychological sources'' whenever we refer to physicians and psychologists under the same heading, as we use the phrase ''medical and psychological consultants'' in these regulations. The commenter also questioned our use of the term ''medical expert'' to include physicians and psychologists, and proposed that we substitute the terminology ''medical experts or psychologists'' for all references to ''medical experts.''

Response: ''Licensed or certified psychologists'' have been included in the list of ''acceptable medical sources'' in §§ 404.1513(a) and 416.913(a) since 1980, and their continuing inclusion does not represent a change in policy. (45 FR 55567, 55587, 55623, August 20, 1980.) In addition, the Act [42 U.S.C. 421], as well as §§ 404.1503(e) and 416.903(e) of the regulations, require that in initial determinations that the claimant is not disabled, and there is evidence that indicates the existence of a mental impairment, every reasonable effort should be made to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment. Also, as we explain above, we are now changing the term ''medical advisor'' to ''medical expert'' in §§ 404.1512(b)(6) and 416.912(b)(6) and elsewhere, because the latter is the term we currently use to describe these nonexamining sources we consult at the administrative law judge and Appeals Council levels. We previously used the term ''medical advisor'' for many years in §§ 404.1512(b)(6) and 416.912(b)(6). This change in terminology does not represent a change in policy.

Comment: A number of commenters expressed concern that the proposed clarification in the definition of ''medical source'' in §§ 404.1502 and 416.902 to include ''acceptable medical sources or other health care providers who are not acceptable medical sources,'' would prejudice the weighing of evidence from medical sources who are not ''acceptable medical sources.'' These commenters note that many claimants do not, or cannot, receive their primary treatment from ''acceptable medical sources,'' and the nature and frequency of their treatment or evaluation is more a function of staff or time availability, rather than the need for treatment. For example, many claimants receive their primary mental health treatment from therapists or social workers with only monthly visits with a physician for medication control. They note that the existing and the proposed rules exclude such sources from consideration as ''treating sources.''

Response: As the commenters note, we have now provided a definition of the term ''acceptable medical source'' in §§ 404.1502 and 416.902 by reference to §§ 404.1513(a) and 416.913(a), where the sources who are ''acceptable medical sources'' have been identified for many years. These sources have the training and experience necessary to provide the medical evidence that is required by the Act and these regulations to establish the existence of a medically determinable impairment or impairments. We recognize, however, that some individuals receive treatment from other sources, and our longstanding policy stated in §§ 404.1513(e) and 416.913(e) is to use information from these other sources, such as social welfare agencies, to help us to understand how an individual's impairment may affect his or her ability to work, once the existence of a medically determinable impairment has been established.

Comment: One commenter agreed with the clarification in §§ 404.1502 and 416.902 that a source that only examines and evaluates an individual on an ongoing basis, but who does not provide any treatment, may also be a ''treating source.'' The commenter noted that many of the individuals making a claim for disability benefits do not have private insurance or resources to pay for medical care and must rely on the local public health care system, and many times the only ''treatment'' the public health care services provide for people with chronic physical or mental ailments are periodic examinations and evaluations.

Response: As the commenter has noted, we are clarifying the definition of ''treating source'' in §§ 404.1502 and 416.903 to be consistent with our longstanding use of the word ''evaluation'' in the definition of a ''treating source'' as a source ''who has provided you with medical treatment or evaluation * * *.''

Regulatory Procedures

Executive Order 12866

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

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting or recordkeeping requirements subject to OMB clearance.

(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

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors, and Disability

Insurance, Reporting and recordkeeping requirements, Social security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: February 14, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, subpart P of part 404 and subpart I of part 416 of 20 CFR chapter III are amended as set forth below:

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

Subpart P—[Amended]

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

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.

2. Section 404.1502 is amended by republishing the introductory text, removing the terms ''Source of record'' and ''you,'' revising the definitions of ''Medical sources'' and ''Treating source,'' and adding definitions in the appropriate alphabetical order for the terms ''Acceptable medical source,'' ''Nonexamining source,'' ''Nontreating source,'' and ''you or your'' to read as follows:

§ 404.1502 General definitions and terms for this subpart.

As used in the subpart—

Acceptable medical source refers to one of the sources described in § 404.1513(a) who provides evidence about your impairments. It includes treating sources, nontreating sources, and nonexamining sources.

* * * * *

Medical sources refers to acceptable medical sources, or other health care providers who are not acceptable medical sources.

Nonexamining source means a physician, psychologist, or other acceptable medical source who has not examined you but provides a medical or other opinion in your case. At the administrative law judge hearing and Appeals Council levels of the administrative review process, it includes State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult. See § 404.1527.

Nontreating source means a physician, psychologist, or other acceptable medical source who has examined you but does not have, or did not have, an ongoing treatment relationship with you. The term includes an acceptable medical source who is a consultative examiner for us, when the consultative examiner is not your treating source. See § 404.1527.

* * * * *

Treating source means your own physician, psychologist, or other acceptable medical source who provides you, or has provided you, with medical treatment or evaluation and who has, or has had, an ongoing treatment relationship with you. Generally, we will consider that you have an ongoing treatment relationship with an acceptable medical source when the medical evidence establishes that you see, or have seen, the source with a frequency consistent with accepted medical practice for the type of treatment and/or evaluation required for your medical condition(s). We may consider an acceptable medical source who has treated or evaluated you only a few times or only after long intervals (*e.g.,* twice a year) to be your treating source if the nature and frequency of the treatment or evaluation is typical for your condition(s). We will not consider an acceptable medical source to be your treating source if your relationship with the source is not based on your medical need for treatment or evaluation, but solely on your need to obtain a report in support of your claim for disability. In such a case, we will consider the acceptable medical source to be a nontreating source.

* * * * *

You or *your* means, as appropriate, the person who applies for benefits or for a period of disability, the person for whom an application is filed, or the person who is receiving benefits based on disability or blindness.

3. Section 404.1512 is amended by revising paragraph (b)(6) to read as follows:

§ 404.1512 Evidence of your impairment.

* * * * *

(b) * * *

* * * * *

(6) At the administrative law judge and Appeals Council levels, findings, other than the ultimate determination about whether you are disabled, made by State agency medical or psychological consultants and other program physicians or psychologists, and opinions expressed by medical experts we consult based on their review of the evidence in your case record. See §§ 404.1527(f)(2) and (f)(3).

* * * * *

4. Section 404.1513 is amended by revising the first sentence of paragraph (b)(6) and paragraph (c) to read as follows:

§ 404.1513 Medical evidence of your impairment.

* * * * *

(b) * * *

* * * * *

(6) A statement about what you can still do despite your impairment(s) based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section (except in statutory blindness claims). * * *

(c) *Statements about what you can still do.* At the administrative law judge and Appeals Council levels, we will consider residual functional capacity assessments made by State agency medical and psychological consultants and other program physicians and psychologists to be ''statements about what you can still do'' made by nonexamining physicians and psychologists based on their review of the evidence in the case record. Statements about what you can still do (based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section) should describe, but are not limited to, the kinds of physical and mental capabilities listed as follows (See §§ 404.1527 and 404.1545(c)):

(1) The acceptable medical source's opinion about your ability, despite your impairment(s), to do work-related activities such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling; and

(2) In cases of mental impairment(s), the acceptable medical source's opinion about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers, and work pressures in a work setting.

* * * * *

5. Section 404.1519 is amended by revising the first sentence to read as follows:

§ 404.1519 The consultative examination.

A consultative examination is a physical or mental examination or test purchased for you at our request and expense from a treating source or another medical source, including a pediatrician when appropriate. * * *

6. Section 404.1519g is amended by revising the last sentence of paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 404.1519g Who we will select to perform a consultative examination.

(a) * * * For a more complete list of medical sources, see § 404.1513.

* * * * *

(c) The medical source we choose may use support staff to help perform the consultative examination. * * *

7. Section 404.1519h is revised to read as follows:

§ 404.1519h Your treating source.

When in our judgment your treating source is qualified, equipped, and willing to perform the additional examination or tests for the fee schedule payment, and generally furnishes complete and timely reports, your treating source will be the preferred source to do the purchased examination. Even if only a supplemental test is required, your treating source is ordinarily the preferred source.

8. Section 404.1519i is revised to read as follows:

§ 404.1519i Other sources for consultative examinations.

We will use a medical source other than your treating source for a purchased examination or test in situations including, but not limited to, the following situations:

(a) Your treating source prefers not to perform such an examination or does not have the equipment to provide the specific data needed;

(b) There are conflicts or inconsistencies in your file that cannot be resolved by going back to your treating source;

(c) You prefer a source other than your treating source and have a good reason for your preference;

(d) We know from prior experience that your treating source may not be a productive source, *e.g.,* he or she has consistently failed to provide complete or timely reports.

9. Section 404.1519j is revised to read as follows:

§ 404.1519j Objections to the medical source designated to perform the consultative examination.

You or your representative may object to your being examined by a medical source we have designated to perform a consultative examination. If there is a good reason for the objection, we will schedule the examination with another medical source. A good reason may be that the medical source we designated had previously represented an interest adverse to you. For example, the medical source may have represented your employer in a workers' compensation case or may have been involved in an insurance claim or legal action adverse to you. Other things we will consider include: The presence of a language barrier, the medical source's office location (*e.g.,* 2nd floor, no elevator), travel restrictions, and whether the medical source had examined you in connection with a previous disability determination or decision that was unfavorable to you. If your objection is that a medical source allegedly ''lacks objectivity'' in general, but not in relation to you personally, we will review the allegations. See § 404.1519s. To avoid a delay in processing your claim, the consultative examination in your case will be changed to another medical source while a review is being conducted. We will handle any objection to use of the substitute medical source in the same manner. However, if we had previously conducted such a review and found that the reports of the medical source in question conformed to our guidelines, we will not change your examination.

10. Section 404.1519k is amended by revising the introductory text to read as follows:

§ 404.1519k Purchase of medical examinations, laboratory tests, and other services.

We may purchase medical examinations, including psychiatric and psychological examinations, X-rays and laboratory tests (including specialized tests, such as pulmonary function studies, electrocardiograms, and stress tests) from a medical source.

* * * * *

11. Section 404.1519m is amended by revising the first and last sentences to read as follows:

§ 404.1519m Diagnostic tests or procedures.

We will request the results of any diagnostic tests or procedures that have been performed as part of a workup by your treating source or other medical source and will use the results to help us evaluate impairment severity or prognosis. * * * The responsibility for deciding whether to perform the examination rests with the medical source designated to perform the consultative examination.

12. Section 404.1519n is amended by revising the section heading and the first and last sentences of the introductory text, adding a heading to paragraph (a), revising the first sentence of paragraph (a) introductory text, revising the last two sentences of paragraph (b), revising the second sentence of and adding two sentences at the end of paragraph (c)(6), and revising paragraphs (c)(7) and (e) to read as follows:

§ 404.1519n Informing the medical source of examination scheduling, report content, and signature requirements.

The medical sources who perform consultative examinations will have a good understanding of our disability programs and their evidentiary requirements. * * * We will fully inform medical sources who perform consultative examinations at the time we first contact them, and at subsequent appropriate intervals, of the following obligations:

(a) *Scheduling.* In scheduling full consultative examinations, sufficient time should be allowed to permit the medical source to take a case history and perform the examination, including any needed tests. * * *

* * * * *

(b) *Report content.* * * * The report should reflect your statement of your symptoms, not simply the medical source's statements or conclusions. The medical source's report of the consultative examination should include the objective medical facts as well as observations and opinions.

(c) * * *

* * * * *

(6) * * * This statement should describe the opinion of the medical source about your ability, despite your impairment(s), to do work-related activities, such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling; and, in cases of mental impairment(s), the opinion of the medical source about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers and work pressures in a work setting. Although we will ordinarily request, as part of the consultative examination process, a medical source statement about what you can still do despite your impairment(s), the absence of such a statement in a consultative examination report will not make the report incomplete. See § 404.1527; and

(7) In addition, the medical source will consider, and provide some explanation or comment on, your major complaint(s) and any other abnormalities found during the history and examination or reported from the laboratory tests. The history, examination, evaluation of laboratory test results, and the conclusions will represent the information provided by the medical source who signs the report.

* * * * *

(e) *Signature requirements.* All consultative examination reports will be personally reviewed and signed by the medical source who actually performed the examination. This attests to the fact that the medical source doing the examination or testing is solely responsible for the report contents and for the conclusions, explanations or comments provided with respect to the history, examination and evaluation of laboratory test results. The signature of the medical source on a report annotated ''not proofed'' or ''dictated but not read'' is not acceptable. A rubber stamp signature of a medical source or the medical source's signature entered by any other person is not acceptable.

13. Section 404.1519o is amended by revising the last sentence of paragraph (a) introductory text and the last sentence of paragraph (b) introductory text to read as follows:

§ 404.1519o When a properly signed consultative examination report has not been received.

* * * * *

(a) *When we will make determinations and decisions without a properly signed report.* * * * After we have made the determination or decision, we will obtain a properly signed report and include it in the file unless the medical source who performed the original consultative examination has died:

* * * * *

(b) *When we will not make determinations and decisions without a properly signed report.* * * * If the signature of the medical source who performed the original examination cannot be obtained because the medical source is out of the country for an extended period of time, or on an extended vacation, seriously ill, deceased, or for any other reason, the consultative examination will be rescheduled with another medical source:

* * * * *

14. Section 404.1519p is amended by revising paragraphs (b) and (c) to read as follows:

§ 404.1519p Reviewing reports of consultative examinations.

* * * * *

(b) If the report is inadequate or incomplete, we will contact the medical source who performed the consultative examination, give an explanation of our evidentiary needs, and ask that the medical source furnish the missing information or prepare a revised report.

(c) With your permission, or when the examination discloses new diagnostic information or test results that reveal a potentially life-threatening situation, we will refer the consultative examination report to your treating source. When we refer the consultative examination report to your treating source without your permission, we will notify you that we have done so.

* * * * *

15. Section 404.1519s is amended by revising paragraph (e)(2) and the first sentence of paragraph (f)(6) to read as follows:

§ 404.1519s Authorizing and monitoring the consultative examination.

* * * * *

(e) * * *

(2) Any consultative examination provider with a practice directed primarily towards evaluation examinations rather than the treatment of patients; or

* * * * *

(f) * * *

(6) Procedures for providing medical or supervisory approval for the authorization or purchase of consultative examinations and for additional tests or studies requested by consulting medical sources. * * *

* * * * *

16. Section 404.1527 is amended by revising the section heading, the third sentence of paragraph (d)(2), the heading of paragraph (e), paragraph (e)(2), the heading and introductory text of paragraph (f), and paragraph (f)(2), by adding a sentence to the end of paragraph (d)(6), by adding introductory text to paragraph (e), and by adding paragraph (e)(3) to read as follows:

§ 404.1527 Evaluating opinion evidence.

* * * * *

(d) * * *

(2) *Treatment relationship.* * * * When we do not give the treating source's opinion controlling weight, we apply the factors listed in paragraphs (d)(2)(i) and (d)(2)(ii) of this section, as well as the factors in paragraphs (d)(3) through (d)(6) of this section in determining the weight to give the opinion. * * *

* * * * *

(6) *Other factors.* * * * For example, the amount of understanding of our disability programs and their evidentiary requirements that an acceptable medical source has, regardless of the source of that understanding, and the extent to which an acceptable medical source is familiar with the other information in your case record are relevant factors that we will consider in deciding the weight to give to a medical opinion.

(e) *Medical source opinions on issues reserved to the Commissioner.* Opinions on some issues, such as the examples that follow, are not medical opinions, as described in paragraph (a)(2) of this section, but are, instead, opinions on issues reserved to the Commissioner because they are administrative findings that are dispositive of a case; *i.e.,* that would direct the determination or decision of disability.

* * * * *

(2) *Other opinions on issues reserved to the Commissioner.* We use medical sources, including your treating source, to provide evidence, including opinions, on the nature and severity of your impairment(s). Although we consider opinions from medical sources on issues such as whether your impairment(s) meets or equals the requirements of any impairment(s) in the Listing of Impairments in appendix 1 to this subpart, your residual functional capacity (see §§ 404.1545 and 404.1546), or the application of vocational factors, the final responsibility for deciding these issues is reserved to the Commissioner.

(3) We will not give any special significance to the source of an opinion on issues reserved to the Commissioner described in paragraphs (e)(1) and (e)(2) of this section.

(f) *Opinions of nonexamining sources.* We consider all evidence from nonexamining sources to be opinion evidence. When we consider the opinions of nonexamining sources, we apply the rules in paragraphs (a) through (e) of this section. In addition, the following rules apply to State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult in connection with administrative law judge hearings and Appeals Council review:

* * * * *

(2) Administrative law judges are responsible for reviewing the evidence and making findings of fact and conclusions of law. They will consider opinions of State agency medical or psychological consultants, other program physicians and psychologists, and medical experts as follows:

(i) Administrative law judges are not bound by any findings made by State agency medical or psychological consultants, or other program physicians or psychologists. However, State agency medical and psychological consultants and other program physicians and psychologists are highly qualified physicians and psychologists

who are also experts in Social Security disability evaluation. Therefore, administrative law judges must consider findings of State agency medical and psychological consultants or other program physicians or psychologists as opinion evidence, except for the ultimate determination about whether you are disabled. See § 404.1512(b)(6).

(ii) When an administrative law judge considers findings of a State agency medical or psychological consultant or other program physician or psychologist, the administrative law judge will evaluate the findings using relevant factors in paragraphs (a) through (e) of this section, such as the physician's or psychologist's medical specialty and expertise in our rules, the supporting evidence in the case record, supporting explanations provided by the physician or psychologist, and any other factors relevant to the weighing of the opinions. Unless the treating source's opinion is given controlling weight, the administrative law judge must explain in the decision the weight given to the opinions of a State agency medical or psychological consultant or other program physician or psychologist, as the administrative law judge must do for any opinions from treating sources, nontreating sources, and other nonexamining sources who do not work for us.

(iii) Administrative law judges may also ask for and consider opinions from medical experts on the nature and severity of your impairment(s) and on whether your impairment(s) equals the requirements of any impairment listed in appendix 1 to this subpart. When administrative law judges consider these opinions, they will evaluate them using the rules in paragraphs (a) through (e) of this section.

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

17. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

18. Section 416.902 is amended by republishing the introductory text, removing the terms ''Secretary,'' ''Source of record,'' and ''You,'' revising the definitions of ''Medical sources'' and ''Treating source,'' and adding definitions in the appropriate alphabetical order for the terms ''Acceptable medical source,'' ''Nonexamining source,'' ''Nontreating source,'' and ''You or your'' to read as follows:

§ 416.902 General definitions and terms for this subpart.

As used in the subpart—

Acceptable medical source refers to one of the sources described in § 416.913(a) who provides evidence about your impairments. It includes treating sources, nontreating sources, and nonexamining sources.

* * * * *

Medical sources refers to acceptable medical sources, or other health care providers who are not acceptable medical sources.

Nonexamining source means a physician, psychologist, or other acceptable medical source who has not examined you but provides a medical or other opinion in your case. At the administrative law judge hearing and Appeals Council levels of the administrative review process, it includes State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult. See § 416.927.

Nontreating source means a physician, psychologist, or other acceptable medical source who has examined you but does not have, or did not have, an ongoing treatment relationship with you. The term includes an acceptable medical source who is a consultative examiner for us, when the consultative examiner is not your treating source. See § 416.927.

* * * * *

Treating source means your own physician, psychologist, or other acceptable medical source who provides you, or has provided you, with medical treatment or evaluation and who has, or has had, an ongoing treatment relationship with you. Generally, we will consider that you have an ongoing treatment relationship with an acceptable medical source when the medical evidence establishes that you see, or have seen, the source with a frequency consistent with accepted medical practice for the type of treatment and/or evaluation required for your medical condition(s). We may consider an acceptable medical source who has treated or evaluated you only a few times or only after long intervals (*e.g.,* twice a year) to be your treating source if the nature and frequency of the treatment or evaluation is typical for your condition(s). We will not consider an acceptable medical source to be your treating source if your relationship with the source is not based on your medical need for treatment or evaluation, but solely on your need to obtain a report in support of your claim for disability. In such a case, we will consider the acceptable medical source to be a nontreating source.

* * * * *

You or *your* means, as appropriate, the person who applies for benefits, the person for whom an application is filed, or the person who is receiving benefits based on disability or blindness.

19. Section 416.912 is amended by revising paragraph (b)(6) to read as follows:

§ 416.912 Evidence of your impairment.

* * * * *

(b) * * *

(6) At the administrative law judge and Appeals Council levels, findings, other than the ultimate determination about whether you are disabled, made by State agency medical or psychological consultants and other program physicians or psychologists, and opinions expressed by medical experts we consult based on their review of the evidence in your case record. See §§ 416.927(f)(2) and (f)(3).

* * * * *

20. Section 416.913 is amended by revising the first sentence of paragraph (b)(6) and paragraph (c) to read as follows:

§ 416.913 Medical evidence of your impairment.

* * * * *

(b) * * *

(6) A statement about what you can still do despite your impairment(s) based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section (except in statutory blindness claims). * * *

(c) *Statements about what you can still do.* At the administrative law judge and Appeals Council levels, we will consider residual functional capacity assessments made by State agency medical and psychological consultants and other program physicians and psychologists to be ''statements about what you can still do'' made by nonexamining physicians and psychologists based on their review of the evidence in the case record. Statements about what you can still do (based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this

section) should describe, but are not limited to, the kinds of physical and mental capabilities listed as follows (See §§ 416.927 and 416.945(c)):

(1) If you are an adult, the acceptable medical source's opinion about your ability, despite your impairment(s), to do work-related activities such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling;

(2) If you are an adult, in cases of mental impairment(s), the acceptable medical source's opinion about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers, and work pressures in a work setting; and

(3) If you are a child, the acceptable medical source's opinion about your functional limitations in learning, motor functioning, performing self-care activities, communicating, socializing, and completing tasks (and, if you are a newborn or young infant from birth to age 1, responsiveness to stimuli).

* * * * *

21. Section 416.919 is amended by revising the first sentence to read as follows:

§ 416.919 The consultative examination.

A consultative examination is a physical or mental examination or test purchased for you at our request and expense from a treating source or another medical source, including a pediatrician when appropriate. * * *

22. Section 416.919g is amended by revising the last sentence of paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 416.919g Who we will select to perform a consultative examination.

(a) * * * For a more complete list of medical sources, see § 416.913.

* * * * *

(c) The medical source we choose may use support staff to help perform the consultative examination. * * *

23. Section 416.919h is revised to read as follows:

§ 416.919h Your treating source.

When in our judgment your treating source is qualified, equipped, and willing to perform the additional examination or tests for the fee schedule payment, and generally furnishes complete and timely reports, your treating source will be the preferred source to do the purchased examination. Even if only a supplemental test is required, your treating source is ordinarily the preferred source.

24. Section 416.919i is revised to read as follows:

§ 416.919i Other sources for consultative examinations.

We will use a medical source other than your treating source for a purchased examination or test in situations including, but not limited to, the following situations:

(a) Your treating source prefers not to perform such an examination or does not have the equipment to provide the specific data needed;

(b) There are conflicts or inconsistencies in your file that cannot be resolved by going back to your treating source;

(c) You prefer a source other than your treating source and have a good reason for your preference;

(d) We know from prior experience that your treating source may not be a productive source, *e.g.,* he or she has consistently failed to provide complete or timely reports.

25. Section 416.919j is revised to read as follows:

§ 416.919j Objections to the medical source designated to perform the consultative examination.

You or your representative may object to your being examined by a medical source we have designated to perform a consultative examination. If there is a good reason for the objection, we will schedule the examination with another medical source. A good reason may be that the medical source we designated had previously represented an interest adverse to you. For example, the medical source may have represented your employer in a workers' compensation case or may have been involved in an insurance claim or legal action adverse to you. Other things we will consider include: The presence of a language barrier, the medical source's office location (*e.g.,* 2nd floor, no elevator), travel restrictions, and whether the medical source had examined you in connection with a previous disability determination or decision that was unfavorable to you. If your objection is that a medical source allegedly ''lacks objectivity'' in general, but not in relation to you personally, we will review the allegations. See § 416.919s. To avoid a delay in processing your claim, the consultative examination in your case will be changed to another medical source while a review is being conducted. We will handle any objection to use of the substitute medical source in the same manner. However, if we had previously conducted such a review and found that the reports of the medical source in question conformed to our guidelines, we will not change your examination.

26. Section 416.919k is amended by revising the introductory text to read as follows:

§ 416.919k Purchase of medical examinations, laboratory tests, and other services.

We may purchase medical examinations, including psychiatric and psychological examinations, X-rays and laboratory tests (including specialized tests, such as pulmonary function studies, electrocardiograms, and stress tests) from a medical source.

* * * * *

27. Section 416.919m is amended by revising the first and last sentences to read as follows:

§ 416.919m Diagnostic tests or procedures.

We will request the results of any diagnostic tests or procedures that have been performed as part of a workup by your treating source or other medical source and will use the results to help us evaluate impairment severity or prognosis. * * * The responsibility for deciding whether to perform the examination rests with the medical source designated to perform the consultative examination.

28. Section 416.919n is amended by revising the section heading and the first and last sentences of the introductory text, adding a heading to paragraph (a), revising the first sentence of paragraph (a) introductory text, revising the last two sentences of paragraph (b), revising the second and third sentences of and adding two sentences at the end of paragraph (c)(6), and revising paragraphs (c)(7) and (e) to read as follows:

§ 416.919n Informing the medical source of examination scheduling, report content, and signature requirements.

The medical sources who perform consultative examinations will have a good understanding of our disability programs and their evidentiary requirements. * * * We will fully inform medical sources who perform consultative examinations at the time we first contact them, and at subsequent appropriate intervals, of the following obligations:

(a) *Scheduling.* In scheduling full consultative examinations, sufficient time should be allowed to permit the medical source to take a case history and perform the examination, including any needed tests. * * *

* * * * *

(b) *Report content.* * * * The report should reflect your statement of your symptoms, not simply the medical source's statements or conclusions. The

medical source's report of the consultative examination should include the objective medical facts as well as observations and opinions.

(c) * * *

(6) * * * If you are an adult, this statement should describe the opinion of the medical source about your ability, despite your impairment(s), to do work-related activities, such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling; and, in cases of mental impairment(s), the opinion of the medical source about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers and work pressures in a work setting. If you are a child, this statement should describe the opinion of the medical source about your functional limitations in learning, motor functioning, performing self-care activities, communicating, socializing, and completing tasks (and, if you are a newborn or young infant from birth to age 1, responsiveness to stimuli). Although we will ordinarily request, as part of the consultative examination process, a medical source statement about what you can still do despite your impairment(s), the absence of such a statement in a consultative examination report will not make the report incomplete. See § 416.927; and

(7) In addition, the medical source will consider, and provide some explanation or comment on, your major complaint(s) and any other abnormalities found during the history and examination or reported from the laboratory tests. The history, examination, evaluation of laboratory test results, and the conclusions will represent the information provided by the medical source who signs the report.

* * * * *

(e) *Signature requirements.* All consultative examination reports will be personally reviewed and signed by the medical source who actually performed the examination. This attests to the fact that the medical source doing the examination or testing is solely responsible for the report contents and for the conclusions, explanations or comments provided with respect to the history, examination and evaluation of laboratory test results. The signature of the medical source on a report annotated ''not proofed'' or ''dictated but not read'' is not acceptable. A rubber stamp signature of a medical source or the medical source's signature entered by any other person is not acceptable.

29. Section 416.919o is amended by revising the last sentence of paragraph (a) introductory text and the last sentence of paragraph (b) introductory text to read as follows:

§ 416.919o When a properly signed consultative examination report has not been received.

* * * * *

(a) *When we will make determinations and decisions without a properly signed report.* * * * After we have made the determination or decision, we will obtain a properly signed report and include it in the file unless the medical source who performed the original consultative examination has died:

* * * * *

(b) *When we will not make determinations and decisions without a properly signed report.* * * * If the signature of the medical source who performed the original examination cannot be obtained because the medical source is out of the country for an extended period of time, or on an extended vacation, seriously ill, deceased, or for any other reason, the consultative examination will be rescheduled with another medical source:

* * * * *

30. Section 416.919p is amended by revising paragraphs (b) and (c) to read as follows:

§ 416.919p Reviewing reports of consultative examinations.

* * * * *

(b) If the report is inadequate or incomplete, we will contact the medical source who performed the consultative examination, give an explanation of our evidentiary needs, and ask that the medical source furnish the missing information or prepare a revised report.

(c) With your permission, or when the examination discloses new diagnostic information or test results that reveal a potentially life-threatening situation, we will refer the consultative examination report to your treating source. When we refer the consultative examination report to your treating source without your permission, we will notify you that we have done so.

* * * * *

31. Section 416.919s is amended by revising paragraph (e)(2) and the first sentence of paragraph (f)(6) to read as follows:

§ 416.919s Authorizing and monitoring the consultative examination.

* * * * *

(e) * * *

(2) Any consultative examination provider with a practice directed primarily towards evaluation examinations rather than the treatment of patients; or

* * * * *

(f) * * *

(6) Procedures for providing medical or supervisory approval for the authorization or purchase of consultative examinations and for additional tests or studies requested by consulting medical sources. * * *

* * * * *

32. Section 416.927 is amended by revising the section heading, the third sentence of paragraph (d)(2), the heading of paragraph (e), paragraph (e)(2), the heading and introductory text of paragraph (f), and paragraph (f)(2), by adding a sentence to the end of paragraph (d)(6), by adding introductory text to paragraph (e), and by adding paragraph (e)(3) to read as follows:

§ 416.927 Evaluating opinion evidence.

* * * * *

(d) * * *

(2) *Treatment relationship.* * * * When we do not give the treating source's opinion controlling weight, we apply the factors listed in paragraphs (d)(2)(i) and (d)(2)(ii) of this section, as well as the factors in paragraphs (d)(3) through (d)(6) of this section in determining the weight to give the opinion. * * *

* * * * *

(6) *Other factors.* * * * For example, the amount of understanding of our disability programs and their evidentiary requirements that an acceptable medical source has, regardless of the source of that understanding, and the extent to which an acceptable medical source is familiar with the other information in your case record are relevant factors that we will consider in deciding the weight to give to a medical opinion.

(e) *Medical source opinions on issues reserved to the Commissioner.* Opinions on some issues, such as the examples that follow, are not medical opinions, as described in paragraph (a)(2) of this section, but are, instead, opinions on issues reserved to the Commissioner because they are administrative findings that are dispositive of a case; *i.e.,* that would direct the determination or decision of disability.

* * * * *

(2) *Other opinions on issues reserved to the Commissioner.* We use medical sources, including your treating source,

to provide evidence, including opinions, on the nature and severity of your impairment(s). Although we consider opinions from medical sources on issues such as whether your impairment(s) meets or equals the requirements of any impairment(s) in the Listing of Impairments in appendix 1 to subpart P of part 404 of this chapter, your residual functional capacity (see §§ 416.945 and 416.946), or the application of vocational factors, the final responsibility for deciding these issues is reserved to the Commissioner.

(3) We will not give any special significance to the source of an opinion on issues reserved to the Commissioner described in paragraphs (e)(1) and (e)(2) of this section.

(f) *Opinions of nonexamining sources.* We consider all evidence from nonexamining sources to be opinion evidence. When we consider the opinions of nonexamining sources, we apply the rules in paragraphs (a) through (e) of this section. In addition, the following rules apply to State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult in connection with administrative law judge hearings and Appeals Council review:

* * * * *

(2) Administrative law judges are responsible for reviewing the evidence and making findings of fact and conclusions of law. They will consider opinions of State agency medical or psychological consultants, other program physicians and psychologists, and medical experts as follows:

(i) Administrative law judges are not bound by any findings made by State agency medical or psychological consultants, or other program physicians or psychologists. However, State agency medical and psychological consultants and other program physicians and psychologists are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation. Therefore, administrative law judges must consider findings of State agency medical and psychological consultants or other program physicians or psychologists as opinion evidence, except for the ultimate determination about whether you are disabled. See § 416.912(b)(6).

(ii) When an administrative law judge considers findings of a State agency medical or psychological consultant or other program physician or psychologist, the administrative law judge will evaluate the findings using relevant factors in paragraphs (a) through (e) of this section, such as the physician's or psychologist's medical specialty and expertise in our rules, the supporting evidence in the case record, supporting explanations provided by the physician or psychologist, and any other factors relevant to the weighing of the opinions. Unless the treating source's opinion is given controlling weight, the administrative law judge must explain in the decision the weight given to the opinions of a State agency medical or psychological consultant or other program physician or psychologist, as the administrative law judge must do for any opinions from treating sources, nontreating sources, and other nonexamining sources who do not work for us.

(iii) Administrative law judges may also ask for and consider opinions from medical experts on the nature and severity of your impairment(s) and on whether your impairment(s) equals the requirements of any impairment listed in appendix 1 to subpart P of part 404 of this chapter. When administrative law judges consider these opinions, they will evaluate them using the rules in paragraphs (a) through (e) of this section.

* * * * *

[FR Doc. 00–5035 Filed 3–6–00; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 20

[Docket No. 98N–0518]

Public Information; Communications With State and Foreign Government Officials

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing final regulations governing communications with State and foreign government officials. The rule states that FDA may disclose confidential commercial information to international organizations having responsibility to facilitate global or regional harmonization of standards and requirements. These disclosures will, in almost all instances, occur only with the consent of the person who submitted the confidential commercial information to FDA. The rule also streamlines the process for FDA officials to disclose certain nonpublic, predecisional documents (such as draft rules and guidance documents) to State and foreign government officials. The rule does not alter current procedures for sharing documents that contain confidential commercial information. These changes are intended to facilitate information exchanges with State and foreign governments and certain international organizations.

DATES: This rule becomes effective on May 22, 2000.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy, Planning, and Legislation (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of July 27, 1998 (63 FR 40069), FDA published a proposed rule that would facilitate its communications with foreign governments. Current FDA regulations at § 20.89 (21 CFR 20.89) permit FDA to disclose confidential commercial information and nonpublic, predecisional documents to foreign governments. Nonpublic, predecisional documents are disclosed under § 20.89(d) only if they do not contain unredacted confidential commercial information (such as draft FDA guidance documents or regulations). These disclosures are subject to certain safeguards. These safeguards include obtaining a written statement from the foreign government agency establishing that agency's authority to protect the confidential commercial information from public disclosure, and a written commitment not to disclose such information without written permission from the person who created or submitted the confidential commercial information (the ''sponsor'') or written confirmation from FDA that the information is no longer confidential. Similar safeguards exist regarding exchanges of nonpublic, predecisional information.

A similar regulation for communications with State government officials exists at § 20.88 (21 CFR 20.88).

FDA published the proposed rule to accomplish several goals. First, the proposed rule would amend §§ 20.88(e)(1)(i) and 20.89(d)(1)(i) to eliminate the requirement for the written statement and written commitment for exchanges involving solely nonpublic, predecisional information. As explained in the preamble to the proposed rule, it appears that requiring written

statements from the receiving foreign government agencies is contrary to customary international practice, in which drafts of such documents are routinely shared with trusted individuals in foreign government counterpart agencies as part of a well—understood and well—established practice that provides that those individuals and their agencies will not disclose the documents or make them public (63 FR 40069 at 40071). FDA's experience with § 20.89 also indicates that officials in some foreign agencies have been reluctant to execute these written statements for various reasons, including uncertainty as to who in their respective government agencies possesses the requisite authority to sign such a statement, or concerns that the written statements might, under their government's policies or laws, be considered an international agreement that might require new national legislation or legislative consent. FDA further noted in the preamble to the proposed rule that, because the information exchanges in question involve nonpublic, predecisional documents that do not contain confidential commercial information, the written statements add little value to protecting the information exchange process because only FDA's deliberative interests would be directly affected by a premature public disclosure.

Second, the proposal would revise § 20.89 to permit FDA to disclose to international organizations both confidential commercial information and nonpublic, predecisional information. Disclosures of confidential commercial information to an international organization would be subject to the same safeguards that apply to disclosures of such information to foreign government agencies, including a written statement, a written commitment, and, in most cases, the sponsor's consent. The preamble to the proposed rule described an instance in which the Pan American Health Organization (PAHO) requested certain manufacturing and product quality information from FDA after a product contamination incident, and FDA was unable to disclose the information to PAHO until non-FDA sources had publicly disclosed the information (63 FR 40069 at 40071). Thus, the proposal would address situations in which an international organization seeks to obtain confidential commercial information from FDA by moving the language regarding an ''official of a foreign government agency'' from § 20.89(d)(3)—where it applies only to disclosures of nonpublic, predecisional documents—to a new § 20.89(e), so that it would apply to all disclosures under § 20.89. The proposal would also revise the reference to international organizations to refer to international organizations that facilitate ''global or regional'' harmonization of standards and requirements. The reference to ''regional'' harmonization efforts would reflect the fact that some international organizations operate primarily on a regional, rather than global, scale.

Finally, the proposed rule would clarify that the term ''official of a foreign government'' in proposed § 20.89(e) includes, but is not limited to, permanent and temporary employees of, and agents contracted by, a foreign government. This clarification was needed because the existing rule expressly mentioned agents, but not employees of the foreign government (63 FR 40069 at 40071).

II. Discussion of Comments on the Proposed Rule

FDA received four comments on the proposed rule, including one comment from a foreign government. Three comments, submitted by pharmaceutical companies and a trade association, opposed the rule. The fourth comment, submitted by a foreign government agency, supported the rule.

A. Sections 20.88(e)(1) and 20.89(d)(1)—Eliminating the Requirement of a Written Statement and a Written Commitment From State and Foreign Governments for Exchanges of Nonpublic, Predecisional Documents

As stated earlier, the proposal would revise §§ 20.88(e)(1) and 20.89(d)(1) to eliminate the requirement whereby a U.S. State or foreign government agency official must provide a written statement concerning that agency's ability to protect nonpublic, predecisional documents from public disclosure and a written commitment not to disclose any nonpublic, predecisional documents without FDA's written confirmation that the document no longer has nonpublic status.

1. One comment from a foreign government agency stated that it ''welcome[s] FDA's recognition that the previous requirement for a written undertaking has been contrary to customary international practice'' and that it, too, was aware that ''in some countries legal difficulties have arisen over providing FDA with such undertakings.'' The comment stated that the rule would help simplify communications between the two countries.

In contrast, one comment from a pharmaceutical trade association opposed giving nonpublic, predecisional documents to State and foreign governments, stating that FDA's rationale was ''difficult to follow,'' that the written statements are not ''overly burdensome,'' and that FDA would be ''putting the competitive interests of United States companies at risk.'' The comment added that ''the concerns expressed by foreign governments are not applicable to United States government agencies'' and that ''the exemptions from [the Freedom of Information Act] for pre-decisional documents and confidential commercial information should not be undermined by allowing this information to be available at the state level by virtue of differing state laws.''

The final rule eliminates the need for a written statement and a written commitment from State and foreign government agencies when exchanges of nonpublic, predecisional documents are involved. FDA reiterates that these are documents that FDA creates; examples include draft regulations and draft guidance documents. Nonpublic, predecisional documents prepared by FDA normally do not contain confidential commercial information. If FDA prepared a document that contained confidential commercial information, that material would be considered, for purposes of §§ 20.88 and 20.89, to be confidential commercial information, rather than a nonpublic, predecisional document. Therefore, the provisions of §§ 20.88 and 20.89 pertaining to confidential commercial information would apply. Alternatively, FDA could redact the confidential commercial information before providing the nonpublic, predecisional document to the State or foreign government agency. Because the nonpublic, predecisional documents that FDA would provide to State and foreign governments would not contain confidential commercial information, their exchange would not place U.S. companies at a competitive disadvantage internationally or domestically.

The written statement and written commitment requirement for nonpublic, predecisional documents that published in the **Federal Register** of December 8, 1995 (60 FR 63372) (hereinafter referred to as the 1995 final rule), was more formal than customary international practice and presented legal or legislative challenges to some foreign governments. The comment from the foreign government clearly and unequivocally supports FDA's rationale. While the comment opposing the proposal states that U.S. government agencies do not have to remedy issues

or problems faced by a foreign government, FDA cannot ignore the fact that the written statement and written commitment requirement departed from customary international practice and impeded the very exchange of information that the 1995 final rule was intended to promote.

To illustrate the problem, FDA has received requests for draft documents from certain foreign government officials in order to harmonize international regulatory efforts on a particular subject. The written statement and written commitment requirement, on occasion, has presented an obstacle to the information exchange because the foreign government agency was uncertain as to whether such a statement, under the foreign country's law, would be considered to be a treaty or international agreement or because the foreign government agency was uncertain as to which official had the authority to sign a written statement and written commitment of this sort and provide it to another country. These uncertainties frustrated the intent behind § 20.89 because, without the written statement and written commitment from the foreign government, FDA could not provide the draft to the foreign government, and the opportunity for international collaboration on the draft was lost. Thus, contrary to the opposing comment's belief, a foreign government's ''problems'' with the written statement and written commitment requirement can affect FDA as well as the foreign government agency.

FDA also does not accept the suggestion that nonpublic, predecisional information should not be available to State governments. FDA's regulations have provided for exchanges of nonpublic, predecisional information with certain State officials (those who have been commissioned under section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372) and those under contract with FDA) and with State governments since the 1995 final rule, and the 1998 proposal did not contain any amendments or revisions (aside from the removal of the written statement and written commitment requirement) that would affect the availability of nonpublic, predecisional information to State government agencies. FDA further notes that it would be an odd result if FDA could provide nonpublic, predecisional information to a foreign government, but could not provide the same information to a State government in the United States. Similarly, it would be an odd result if FDA required State government agencies to provide greater assurance, compared to foreign governments, that they would protect nonpublic, predecisional documents from disclosure, especially when, in both cases, it is only governmental interests, not individual companies' interests, that would be adversely affected by an unauthorized disclosure.

B. Section 20.89(e)—Amending the Term ''Official of a Foreign Government Agency''

1. The Inclusion of Temporary and Permanent Employees and Agents

As stated earlier, proposed § 20.89(e) would clarify that the term ''official of a foreign government'' includes both temporary and permanent foreign government employees and agents. FDA proposed this change because the existing language, at § 20.89(d)(3), expressly mentions agents, but not employees, of a foreign government. The proposal also would construe the term ''official of a foreign government'' as including temporary as well as permanent employees and agents. The inclusion of temporary employees and agents is meant to cover those situations where a foreign government employee is temporarily assigned to an international organization.

2. One comment noted that the proposal did not expressly state whether foreign consultants are subject to any restrictions on the disclosure of information that FDA provides to a foreign government or to an international organization. The comment further noted that proposed § 20.89(e) would require written statements from an international organization and individuals in the international organization, but that proposed § 20.89(d)(1)(i) would eliminate the written statements.

The reference to employees and agents in proposed § 20.89(e) was not intended to exclude consultants to a foreign government agency. FDA considers consultants to be ''agents'' within proposed § 20.89(e) and expects that such persons will adhere to the foreign government's written statement and written commitment regarding confidential commercial information and adhere to the foreign government agency's customary practice of not disclosing nonpublic, predecisional information supplied by a different government. In the event of an unauthorized disclosure, FDA will hold both the responsible individual and the foreign government agency accountable, and will take appropriate action.

As for the comment's statement that proposed §§ 20.89(d)(1)(i) and 20.89(e) conflict on the need for a written statement and written commitment, FDA agrees and has modified § 20.89(e) to clarify that written statements and written commitments are required on behalf of both the international organization and the individual involved when confidential commercial information is being disclosed.

2. Providing Confidential Commercial Information to International Organizations

Several comments strongly opposed the language in proposed § 20.89(e) which would enable FDA to provide confidential commercial information to international organizations.

3. Three comments challenged the agency's basis for the proposal. Two comments argued that an international organization such as PAHO has no role in matters that would require it to receive confidential commercial information, has no enforcement authority, and might not even be considered to have a role in harmonizing standards or requirements. Alternatively, one comment stated that, even if an international organization is responsible for global or regional harmonization of standards, it is unclear why such international organizations need confidential commercial information, especially in situations where there is no public health concern.

The preamble to the proposed rule described an incident in Haiti where PAHO assisted Haiti's Ministry of Health in investigating a kidney failure epidemic in which nearly 90 children died. The problems were traced to a contaminated liquid acetaminophen product manufactured in Haiti, and FDA assisted the Haitian government by examining the pharmaceutical company, obtaining samples, and conducting laboratory tests. FDA prepared an inspection report that contained some confidential commercial information. Consequently, when PAHO requested the report, FDA was unable to provide the information because the existing FDA regulation did not provide for disclosing confidential commercial information to an international organization. FDA provided the information to PAHO only after FDA learned that non-FDA sources had publicly disclosed the information.

This example illustrates that an international organization may, indeed, have a need for confidential commercial information from FDA. FDA also disagrees with the comment that suggested that no public health concerns existed in the PAHO example because, at the time of the investigation, the number of children who had died or

had become ill due to the contaminated product was rising, and officials were not certain about the source of the contamination or whether other drug products had been contaminated.

However, FDA acknowledges that, in the PAHO example, the international organization was working to promote and coordinate public health efforts rather than taking an enforcement role or harmonizing standards or requirements. Therefore, FDA has clarified the definition of ''international organization'' to extend to international organizations whose responsibilities include promoting and coordinating public health efforts, consistent with the Haiti example described in the preamble to the proposed rule.

FDA also points out that the World Health Organization (WHO), as well as PAHO (the WHO's regional body), does have a responsibility for harmonization and product standards.

4. Three comments also sought specifics as to which international organizations might be able to receive confidential commercial information from FDA under the rule. One comment suggested that FDA establish standards and procedures to determine which international organizations should receive confidential commercial information; the comment would have FDA identify such organizations through notice and comment rulemaking and require international organizations to give FDA a summary of their charters, purposes, membership, and internal rules for protecting confidential commercial information from public disclosure. One comment would permit FDA to disclose confidential commercial information only to international organizations whose regulatory responsibilities are established by law, treaties, or other acts of government, and would exclude private or nongovernmental organizations. Another comment would exclude nongovernmental organizations. The comment stated that employees of nongovernmental organizations may not be subject to any laws preventing unauthorized disclosures and might not be ''legally or morally bound'' to protect confidential commercial information provided by FDA.

Although FDA believes that many of the comments' suggestions would encumber the agency with excessive procedures and requirements, the agency agrees that the reference to international organizations should be more specific. The proposal was not intended to extend disclosures of confidential commercial information to private or nongovernmental organizations. Consequently, FDA has revised proposed § 20.89(e) so that the term ''international organization'' refers only to international organizations that are established by law, treaty, or other governmental action and that have the responsibility to facilitate global or regional harmonization of standards and requirements in FDA's area of responsibility or to promote and coordinate public health efforts. Thus, the international organizations subject to revised proposed § 20.89(e), therefore, are those that (unlike private or nongovernmental organizations) generally have statutes, regulations, or other obligations to protect confidential commercial information from public disclosure. Additionally, FDA will continue to require international organizations to provide written statements establishing their authority to protect confidential commercial information from public disclosure and written commitments not to disclose such information without the sponsor's written permission or written confirmation from FDA that the information is no longer confidential.

The agency declines, however, to amend the rule to establish notice and comment rulemaking procedures to determine which international organizations may be eligible to receive confidential commercial information from FDA. The agency reiterates that, in almost all cases, exchanges of confidential commercial information involve a sponsor's consent. Thus, the burdens on the agency associated with notice and comment rulemaking procedures for determining an international organization's ''eligibility'' to receive information outweigh any benefits from such procedures in this instance.

FDA also declines to amend the rule to create an explicit ''application'' to be submitted by international organizations. Currently, for all disclosures to State and foreign governments (including international organizations), FDA carefully examines the reasons why the requesting body needs confidential commercial information, the statutory and regulatory mechanisms for protecting information supplied by FDA, and the identities of persons who will receive the information. Requiring a summary of the international organization's charter, purpose, and membership could be done on a case-by-case basis, if necessary, but often would be unnecessary. The United States is a member of the international organizations that would generally be the recipients of information under the rule and, therefore, FDA already possesses information on their charters, purposes, and memberships. (For example, the United States is a member of the PAHO and the WHO, and information on their charters and memberships is readily available.) If an international organization requests confidential commercial information under § 20.89, and the United States is not a member of that organization, FDA will carefully review the request and will seek whatever documents it feels are necessary to evaluate the request.

5. One comment stated that developing countries that lack sophisticated health systems would be the countries most likely to rely on international organizations in a public health crisis. However, the comment explained, developing countries often lack intellectual property protections within their legal systems. The comment added that if confidential commercial information were ''routinely'' released to international organizations, there would be a corresponding increased risk of ''routine'' abuse of intellectual property protections worldwide, without any benefit to U.S. manufacturers or to the public health of the United States. The comment claimed that the rule would benefit only foreign organizations and foreign competitors to U.S. manufacturers.

The comment misinterprets the rule. Under § 20.89(c)(1)(i), a foreign government agency seeking confidential commercial information from FDA must provide both a written statement establishing its authority to protect confidential commercial information from public disclosure and a written commitment not to disclose such confidential commercial information ''*without the written permission of the sponsor* or written confirmation by the Food and Drug Administration that the information no longer has confidential status'' (emphasis added). Additionally, under § 20.89(c)(1)(ii)(A), FDA must determine that the sponsor of the product application has provided written authorization for the disclosure, or, under § 20.89(c)(1)(ii)(B), that disclosure would be in the interest of public health by reason of the foreign government's possessing information concerning the safety, efficacy, or quality of a product or information concerning an investigation. Under the final rule, these safeguards also would apply to disclosures of confidential commercial information to an international organization. FDA is not proposing, and has never proposed, to disclose confidential commercial information to a foreign government or to an international organization on a routine basis.

The agency notes that, under existing FDA regulations, an international organization that provides the necessary written statement and written commitment in order to obtain confidential commercial information from FDA cannot redisclose that confidential commercial information to a foreign government (or to any other party) without the sponsor's written permission or written confirmation from FDA that the information no longer has nonpublic status (see 21 CFR 20.89(c)(1)(i)). Thus, international organizations receiving confidential commercial information under this rule will not be conduits for disclosures of confidential commercial information to foreign governments without permission from the sponsor or from FDA. If an international organization intends to request confidential commercial information from FDA and then provide that information to a foreign government, both the international organization and the foreign government must provide the necessary written statements and commitments to FDA to ensure that the information is protected.

Moreover, as stated in the preamble to the proposed rule, in almost every case, disclosures of confidential commercial information to foreign governments have occurred with the sponsor's consent, and only after the foreign government has provided the necessary written statements (see 63 FR 40069 at 40070). Contrary to the comment's inference about the benefits that would flow to developing countries, the exchanges to date have been mostly to other developed countries. The disclosures have generally benefitted the sponsors of the confidential commercial information by facilitating approval or marketing decisions for the sponsor's product.

FDA further notes that it is conscious of intellectual property concerns, particularly for pharmaceuticals, and is quite aware of its obligation under Article 39.3 of the Agreement on Trade-related Aspects of Intellectual Property Rights to protect undisclosed test or other data against unfair commercial use. Article 39.3 requires governments to protect such data against public disclosure ''except where necessary to protect the public, or unless steps are taken to ensure that the data are protected against unfair commercial use.'' The requirement in § 20.89(c)(1) for written statements and the general requirement for sponsor consent are intended to help protect confidential commercial information from unauthorized public disclosure.

6. Two comments stated that FDA should require or reaffirm that it will obtain a sponsor's consent before providing confidential commercial information to a foreign government or to an international organization. One comment would amend § 20.89(d)(1)(ii) to require written confidentiality agreements from international organizations and individuals in the organization who are to receive confidential commercial information and to require consent from sponsors.

FDA reiterates that neither the proposed rule nor this final rule changes the requirements for written statements, written commitments, and sponsor consent for exchanges involving confidential commercial information. The requirements for disclosures of confidential commercial information are found at § 20.89(c). The elimination of the written statement and written commitment requirement applies solely to exchanges involving nonpublic, predecisional documents under § 20.89(d). As stated earlier, nonpublic, predecisional documents are prepared by FDA and normally do not contain any confidential commercial information.

Thus, FDA declines to amend § 20.89(d)(1)(i) as suggested by the comment because that paragraph pertains to exchanges of nonpublic, predecisional information.

7. One comment would amend the rule to require a sponsor's consent for all disclosures of confidential commercial information to international organizations. The comment stated that FDA has no obligation to balance the public interest against a sponsor's interest in maintaining the confidentiality of information. The comment added that if FDA engages in such balancing of interests, it should provide written notice to the sponsor describing the confidential commercial information that has been provided to an international organization and, furthermore, that only the Commissioner of Food and Drugs (the Commissioner) should be authorized to make such disclosures to an international organization.

Similarly, another comment stated that if FDA discloses confidential commercial information to an international organization, without a sponsor's consent, under the ''public interest'' at § 20.89(c)(1)(ii), the agency should specify the public health circumstances justifying the disclosure.

When FDA first issued the final rule codifying § 20.89(c)(1)(ii) in 1993, it explained that there are situations in which it might be inappropriate to seek a sponsor's consent to a disclosure of confidential commercial information. The preamble to the 1993 final rule gave examples of possible situations in which a sponsor may have engaged in deliberate fraud or misrepresentation, or situations in which FDA might wish to share confidential commercial information obtained through an FDA investigation for a foreign government's use in its own regulatory efforts (see 58 FR 61598 at 61601 (November 19, 1993)). FDA stated that these types of disclosures to foreign government counterparts ''may facilitate efforts to keep unapproved, adulterated, counterfeit, or misbranded products off world markets as well as American markets.'' This rationale still applies, and, therefore, FDA declines to amend the rule to require a sponsor's consent in all disclosures of confidential commercial information.

As for the comments asking FDA to provide written notice to a manufacturer or to explain the public interest reasons behind a disclosure, FDA responded to similar comments in 1995 when it issued a final rule amending §§ 20.88 and 20.89. Those comments in 1995 suggested that FDA provide summaries of the information disclosed to foreign governments. In the preamble to the 1995 final rule, FDA stated that such summaries would be inappropriate or unnecessary (see 60 FR 63372 at 66379). FDA explained that if a foreign government were considering whether to take action against a particular product, requiring FDA to provide a summary to the product's manufacturer would alert the manufacturer to a potential enforcement action and would, therefore, be inappropriate. If FDA were helping a foreign government identify fraudulent goods and provided confidential commercial information to help distinguish legitimate products from fraudulent ones, providing a summary to the manufacturer would be unnecessary because the manufacturer would already know the information that was the basis of the summary.

FDA's rationale for not providing summaries also applies to the written notice and identification of the public health interests sought by the comments. If FDA were providing confidential commercial information to a foreign government to assist that government in a decision whether to take action against a particular product, providing a written notice to the product's manufacturer would alert the manufacturer to a potential enforcement action and might undermine or compromise the enforcement action. Similarly, stating that the public health interest involved an enforcement action would alert the product's manufacturer and might undermine or compromise any enforcement action. Thus, FDA

declines to revise the rule to require the agency to provide a written notice to a sponsor or to specify the public health interest reasons behind a disclosure.

As for the comment asking that the Commissioner be the only person authorized to disclose confidential commercial information to an international organization, FDA declines to amend the rule to impose such a limitation. The authority to disclose confidential commercial information under § 20.89 was delegated to the Associate Commissioner for Regulatory Affairs and various office and center officials (such as center directors and deputy directors) in 1994. Similar authority, for disclosures of confidential commercial information under § 20.88, was delegated in 1997. These delegations of authority have made exchanges of confidential commercial information with State and foreign government officials more efficient. Given the agency's experience with these previous delegations of authority, the agency sees no reason to limit or otherwise restrict the authority to disclose such information to international organizations.

8. One comment asked FDA to ''set out the means by which it can and will enforce any confidentiality agreement with an international organization.'' The comment said this information would be relevant to a sponsor's willingness to consent to releasing confidential commercial information to an international organization.

In previous rulemakings, FDA has stated that it would discontinue cooperative ventures with any State or foreign government that failed to honor its written commitment to protect the confidential commercial information provided by FDA (see 60 FR 63372 at 63377). The agency will extend this policy to cover international organizations receiving information from FDA.

The agency also notes that international organizations might cease to enjoy immunity and might face serious consequences if a person in the international organization made an unauthorized disclosure of confidential commercial information or if the international organization violated its written commitment. Under U.S. law, the President may, by Executive Order, designate certain international organizations as being entitled to the privileges, exemptions, and immunities that are normally afforded to foreign governments (see 22 U.S.C. 288). These privileges, exemptions, and immunities are significant, and include treatment comparable to that enjoyed by foreign governments as regards, for example, immunity from suit and judicial process (22 U.S.C. 288a), customs duties and taxes relating to importation (id.), and property taxes imposed by Congress (22 U.S.C. 288c). The President may revoke the designation of an international organization ''if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities provided * * *'' (id.) Thus, an international organization that failed to protect confidential commercial information would risk losing some or all of these significant privileges, exemptions, and immunities.

One should note that several international organizations that might conceivably request confidential commercial information from FDA are designated as international organizations under 22 U.S.C. 288. These include the Food and Agriculture Organization, PAHO (or PAHO/PASB (Pan American Sanitary Bureau)), and WHO.

Additionally, for officers and employees of international organizations, the immunity extends only to ''acts performed by them in their official capacity and falling within their functions * * * except insofar as such immunity may be waived by the foreign Government or international organization concerned'' (see 22 U.S.C. 288d(b)). An international organization official or employee who deliberately violates the organization's written commitment to FDA to protect confidential commercial information might not be considered to be acting within his or her ''official capacity'' or within his or her functions and, as a result, would not enjoy immunity from suit. For example, in *United States* v. *Enger*, 472 F. Supp. 490, 502 (D. N.J. 1978), a Federal district court rejected several defendants' claim that they could not be prosecuted for espionage because they were United Nations employees. The court stated, ''Espionage, the crime with which the defendants are charged, is, of course, not one of the functions performed in the defendants' official capacities with the United Nations'' (id.) (see also *Rendall-Speranza* v. *Nassim*, 107 F.3d 913, 920 (D.C. Cir. 1997) (plaintiff's failure to question a court's acceptance of the defendant organization's admission that its employee's act of battery was within the scope of his employment meant that the employee was immune from suit for battery under 22 U.S.C. 288d(b))).

International organizations that are not designated by an Executive Order do not enjoy the privileges, exemptions, and immunities as provided in 22 U.S.C. 288 through 288d. As a result, they, their officials, and their employees might not be immune from suit. In the event of an unauthorized disclosure of confidential commercial information, a sponsor would be able to pursue legal action against the undesignated international organization.

9. One comment stated that if an international organization requested confidential commercial information on an alleged health hazard, but the relevant foreign government had not asked for such information, FDA should consult the sponsor and allow the sponsor to handle any disclosure issues directly with the international organization. The comment added that if FDA were dissatisfied with the outcome between the sponsor and the international organization, FDA could release the data if it determined that a health hazard exists. The comment also stated that FDA should first determine that the international organization has responsibilities that require it to have the type of confidential commercial information requested.

FDA reiterates that, for almost all disclosures involving confidential commercial information to a State government, foreign government, or international organization, the sponsor's consent to disclosure will be obtained. However, the agency does not object to a sponsor's making individual disclosure arrangements with an international organization and agrees with the comment that, in some cases, the comment's approach would be practical.

Furthermore, disclosures under § 20.89 have been made on a case-by-case basis, and FDA will consider the foreign government's or international organization's need for the requested information when deciding whether to disclose information. The regulation is intended to facilitate communication with foreign governments and international organizations; it does not compel the agency to disclose confidential commercial information to a foreign government or to an international organization. Thus, if an international organization requests confidential commercial information without any apparent reason, FDA may decline to grant the request.

3. Editorial Changes

Proposed § 20.89(e) stated, in part, that for exchanges of confidential commercial information with an official of an international organization, the written statement and commitment ''shall be provided by both the

organization and the individual.'' FDA, on its own initiative, is replacing the words ''provided by'' with ''provided on behalf of'' to make the sentence more accurate because, in a literal sense, a document cannot be ''provided by'' an inanimate body such as an international organization. Instead, persons provide the required statements and commitments ''on behalf of'' the organization.

Additionally, §§ 20.88(e) and 20.89(d) authorize the Deputy Commissioner for Policy to authorize the disclosure of nonpublic, predecisional documents to State and foreign government officials. Because FDA has reorganized its offices, the functions that were handled by the then-Deputy Commissioner for Policy are now assigned to the Senior Associate Commissioner for Policy, Planning, and Legislation, and international policy functions that were in the then-Office of Policy are now assigned to the Office of International and Constituent Relations. Consequently, FDA is revising §§ 20.88(e) and 20.89(d) to refer to the Senior Associate Commissioner for Policy, Planning, and Legislation and to the Deputy Commissioner for International and Constituent Relations.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a Federalism summary impact statement is not required.

V. Analysis of Impacts

FDA has examined the impacts of this final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize new benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes this final rule is consistent with the regulatory philosophy and the principles identified in the Executive Order. In addition, this final rule is not an economically significant regulatory action as defined in the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The final rule will have no significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act because it regulates only conduct of FDA, State and foreign governments, and international organizations, and not small entities under the Regulatory Flexibility Act. The final rule provides for FDA disclosure of confidential commercial information to international organizations subject to the same safeguards against public disclosure of that information that apply in the case of disclosures to foreign government agencies. These disclosures would likely facilitate marketing review and approval of various FDA-regulated products in foreign countries, and disclosures would almost always occur only with the consent of the business that generated the confidential commercial information. The final rule also provides for FDA disclosure of nonpublic, predecisional documents and other nonpublic information created by FDA to State governments, foreign governments, and international organizations without the need to obtain written assurances. These beneficial effects outweigh any possible adverse impact. Thus, the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities, and, under the Regulatory Flexibility Act, no further analysis is required.

The Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million (adjusted annually for inflation). This rule does not impose any mandates on State, local, or tribal governments, nor is it a significant regulatory action under the Unfunded Mandates Reform Act.

VI. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 20

Confidential business information, Courts, Freedom of information, Government employees.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 20 is amended as follows:

PART 20—PUBLIC INFORMATION

1. The authority citation for 21 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552; 18 U.S.C. 1905; 19 U.S.C. 2531–2582; 21 U.S.C. 321–393, 1401–1403; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1.

2. Section 20.88 is amended by revising paragraph (e)(1) to read as follows:

§ 20.88 Communications with State and local government officials.

* * * * *

(e)(1) The Senior Associate Commissioner for Policy, Planning, and Legislation, or the Deputy Commissioner for International and Constituent Relations, or any other officer or employee of the Food and Drug Administration whom the Senior Associate Commissioner for Policy, Planning, and Legislation or the Deputy Commissioner for International and Constituent Relations may designate to act on their behalf for the purpose, may authorize the disclosure to, or receipt from, an official of a State government agency of nonpublic, predecisional documents concerning the Food and Drug Administration's or the other government agency's regulations or other regulatory requirements, or other nonpublic information relevant to either agency's activities, as part of efforts to improve Federal-State uniformity, cooperative regulatory activities, or implementation of Federal-State agreements, provided that:

(i) The State government agency has the authority to protect such nonpublic documents from public disclosure and will not disclose any such documents provided without the written confirmation by the Food and Drug Administration that the documents no longer have nonpublic status; and

(ii) The Senior Associate Commissioner for Policy, Planning, and Legislation or the Deputy Commissioner for International and Constituent Relations or their designee makes the determination that the exchange is reasonably necessary to improve Federal-State uniformity, cooperative

regulatory activities, or implementation of Federal-State agreements.

* * * * *

3. Section 20.89 is amended by revising paragraph (d)(1); by removing paragraph (d)(3); and by adding paragraph (e) to read as follows:

§ 20.89 Communications with foreign government officials.

* * * * *

(d)(1) The Senior Associate Commissioner for Policy, Planning, and Legislation, or the Deputy Commissioner for International and Constituent Relations, or any other officer or employee of the Food and Drug Administration whom the Senior Associate Commissioner for Policy, Planning, and Legislation or the Deputy Commissioner for International and Constituent Relations may designate to act on their behalf for the purpose, may authorize the disclosure to, or receipt from, an official of a foreign government agency of nonpublic, predecisional documents concerning the Food and Drug Administration's or the other government agency's regulations or other regulatory requirements, or other nonpublic information relevant to either agency's activities, as part of cooperative efforts to facilitate global harmonization of regulatory requirements, cooperative regulatory activities, or implementation of international agreements, provided that:

(i) The foreign government agency has the authority to protect such nonpublic documents from public disclosure and will not disclose any such documents provided without the written confirmation by the Food and Drug Administration that the documents no longer have nonpublic status; and

(ii) The Senior Associate Commissioner for Policy, Planning, and Legislation or the Deputy Commissioner for International and Constituent Relations or their designee makes the determination that the exchange is reasonably necessary to facilitate global harmonization of regulatory requirements, cooperative regulatory activities, or implementation of international agreements.

* * * * *

(e) For purposes of this section, the term ''official of a foreign government agency'' includes, but is not limited to, employees (whether temporary or permanent) of and agents contracted by the foreign government, or by an international organization established by law, treaty, or other governmental action and having responsibility to facilitate global or regional harmonization of standards and requirements in FDA's areas of responsibility or to promote and coordinate public health efforts. For such officials, the statement and commitment required by paragraph (c)(1)(i) of this section shall be provided on behalf of both the organization and the individual.

Dated: December 3, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–5417 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Nicarbazin and Bacitracin Zinc

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Koffolk, Inc. The NADA provides for using approved nicarbazin and bacitracin zinc Type A medicated articles to make combination Type C medicated broiler chicken feeds used for prevention of coccidiosis and for increased rate of weight gain and improved feed efficiency.

DATES: This regulation is effective March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Koffolk, Inc., P.O. Box 675935, 14735 Las Quintas, Rancho Santa Fe, CA 92067, filed NADA 141–146 that provides for combining approved Nicarb® (113.5 grams per pound (g/lb) nicarbazin) manufactured by Koffolk, Inc., and Baciferm® (50 g/lb bacitracin as bacitracin zinc) manufactured by Roche Vitamins, Inc., Type A medicated articles to make Type C medicated broiler chicken feeds. The Type C broiler feeds contain 113.5 g/ton (t) nicarbazin and 4 to 50 g/t bacitracin. The Type C broiler chicken feeds are used as an aid in preventing outbreaks of cecal (*Eimeria tenella*) and intestinal (*E. acervulina*, *E. maxima*, *E. necatrix*, and *E. brunetti*) coccidiosis, and for increased rate of weight gain and improved feed efficiency.

The NADA is approved as of February 2, 2000, and the regulations are amended by adding 21 CFR 558.78(d)(3)(xxi) and by amending the table in 21 CFR 558.366(c) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

This approval is for use of Type A medicated articles to make combination drug Type C medicated feeds. Nicarbazin is a category II drug as defined in 21 CFR 558.3(b)(1)(ii). As provided in 21 CFR 558.4(b), an approved Form FDA 1900 is required to make a Type C medicated feed from a category II drug. Under 21 U.S.C. 360b(m), as amended by the Animal Drug Availability Act of 1996 (Public Law 104–250), medicated feed applications have been replaced by a requirement for feedmill licenses. Therefore, use of Type A medicated articles to make Type C medicated feeds as provided in NADA 141–146 is limited to manufacture in a licensed feedmill.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.78 is amended by adding paragraph (d)(3)(xxi) to read as follows:

§ 558.78 Bacitracin zinc.

* * * * *

(d) * * *

(3) * * *

(xxi) Nicarbazin as in § 558.366.

3. Section 558.366 is amended in the table in paragraph (c) under the entry for ''113.5 (0.0125 pct)'' by alphabetically adding an entry for ''Bacitracin zinc 4 to 50'' to read as follows:

§ 558.366 Nicarbazin.

* * * * *

(c) * * *

Nicarbazin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
113.5 (0.0125 pct)	* * *	* * *	* * *	
*	*	*	*	*
	Bacitracin zinc 4 to 50.	Broiler chickens; aid in preventing outbreaks of cecal (*Eimeria tenella*) and intestinal (*E. acervulina*, *E. maxima*, *E. necatrix*, and *E. brunetti*) coccidiosis, and for increased rate of weight gain and improved feed efficiency.	For broiler chickens only. Feed continuously as sole ration from time chicks are placed on litter until past the time when coccidiosis is ordinarily a hazard. Discontinue medication 4 days before marketing the birds for human consumption to allow for elimination of the drug from edible tissue. Do not feed to laying hens in production. Nicarbazin as provided by 063271, bacitracin zinc by 063238.	063271
*	*	*	*	*

Dated: February 25, 2000.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 00–5415 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, 7 and 16

[T.D. ATF–425]

RIN 1512–AB98

Delegation of Authority (99R–247P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury Decision, Final rule.

SUMMARY: Authority delegation. This final rule places most ATF authorities contained in parts 4, 5, and 7, title 27 Code of Federal Regulations (CFR), with the ''appropriate ATF officer'' and requires that persons file documents required by parts 4, 5, and 7, title 27 CFR, with the ''appropriate ATF officer'' or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director. Concurrently with this Treasury Decision, ATF Order 1130.2A is being published. Through this order, the Director has delegated most of the authorities in 27 CFR parts 4, 5 and 7 to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports that are not ATF forms are filed. Finally, this final rule removes the definition of, and a reference to, the Director in part 16, title 27 CFR.

DATES: Effective March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 (202–927–8210).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120–01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of the Federal Alcohol Administration (FAA) Act. The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under the FAA Act, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in parts 4, 5, and 7 that were previously delegated and places those authorities with the ''appropriate ATF officer.'' Most of the authorities of the Director that were not previously delegated are also placed with the ''appropriate ATF officer.'' Along with this final rule, ATF is publishing ATF Order 1130.2A, Delegation Order—Delegation of the Director's Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in parts 4, 5 and 7 into one delegation instrument. This action both

simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

To conform to these changes, this final rule removes the definition of ''Director'' and the one reference to the Director in part 16. The reference to the Director is found in 27 CFR 16.30. This section states that certificates of label/bottle approval or exemption from label approval are issued pursuant to parts 4, 5, and 7.

In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms will indicate the officer with whom they must be filed. Similarly, this final rule also amends parts 4, 5 and 7 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the ''appropriate ATF officer'' identified in ATF Order 1130.2A. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes various technical amendments to subparts A of 27 CFR parts 4, 5 and 7. First, new sections are added in each part to recognize the authority of the Director to delegate regulatory authorities and to identify ATF Order 1130.2A as the instrument reflecting such delegations. Second, various sections are amended in each part to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

ATF has begun to make similar changes in delegations to other parts of Title 27 of the Code of Federal Regulations through separate rulemakings. By amending the regulations part by part, rather than in one large rulemaking document and ATF Order, ATF minimizes the time expended in notifying interested parties of current delegations of authority.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Authority delegations, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and Containers, Reporting and recordkeeping requirements, Wine.

27 CFR Part 5

Advertising, Authority delegations, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and Containers, Reporting and recordkeeping requirements.

27 CFR Part 7

Advertising, Authority delegations, Beer, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and Containers, Reporting and recordkeeping requirements.

27 CFR Part 16

Alcohol and alcoholic beverages, Consumer protection, Customs duties and inspection, Health, Imports.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted. §§ 4.3, 4.21, 4.23, 4.24, 4.33, 4.37, 4.38, 4.39, 4.40, 4.50, 4.52, and 4.64 [Amended]

Par. 2. In part 4 remove the word ''Director'' each place it appears and add, in substitution, the words ''appropriate ATF officer'' in the following places:

(a) Section 4.3(a);
(b) Section 4.21(b)(3)(iii);
(c) Section 4.23(c)(2);
(d) Section 4.24(a)(1) and (c)(1);
(e) Section 4.33(b);
(f) Section 4.37(c);
(g) Section 4.38(h);
(h) Section 4.39(a)(4) and (5), (d), (g), (i)(2)(iii) and (3), and (j);
(i) Section 4.40(c);
(j) Section 4.50(b);
(k) Section 4.52; and
(l) Section 4.64(a)(4) and (5).

Par. 3. Section 4.3 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 4.3 Forms prescribed.

(a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22153–5190, or by accessing the ATF web site (http://www.atf.treas.gov/).

* * * * *

Par. 4. A new § 4.4 is added to Subpart A to read as follows:

§ 4.4 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 4 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.2A, Delegation Order—Delegation of the Director's Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages. ATF delegation orders, such as ATF Order 1130.2A, are available to any interested person by mailing a request to the ATF Distribution Center, PO Box 5950,

Springfield, Virginia 22150–5190, or by accessing the ATF web site (http://www.atf.treas.gov/).

Par. 5. Section 4.10 is amended by removing the definition ''Regional director (compliance)'', and by adding a new definition of ''Appropriate ATF officer'' to read as follows:

§ 4.10 Meaning of terms.

* * * * *

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.2A, Delegation Order—Delegation of the Director's Authorities in 27 CFR part 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages.

* * * * *

Par. 6. The first and last sentences of paragraph (b)(1) of § 4.24 are amended to remove the words ''Director'' and ''Director's'', respectively, and by adding, in substitution, the phrases ''appropriate ATF officer'' and ''appropriate ATF officer's''.

Par. 7. Paragraph (b)(1) of § 4.30 is amended to remove the words ''Regional director (compliance)'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 8. Paragraph (a) of § 4.50 is amended by removing the words ''application is made to the Director and'' and adding to the end of the sentence the phrase ''by the appropriate ATF officer''.

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 9. The authority citation for part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205. §§ 5.3, 5.22, 5.23, 5.26, 5.28, 5.34, 5.35, 5.36, 5.38, 5.42, 5.46, 5.51, 5.55 and 5.65 [Amended]

Par. 10. In part 5 remove the word ''Director'' each place it appears and add, in substitution, the words ''appropriate ATF officer'' in the following places:

(a) Section 5.3(a);
(b) Section 5.22(k)(1) and (2), and (l)(2);
(c) Section 5.26(b);
(d) Section 5.28, introductory text;
(e) Section 5.34(a);
(f) Section 5.35(a);
(g) Section 5.36(d);
(h) Section 5.38(c);
(i) Section 5.42(a)(4) and (5), and (b)(7);
(j) Section 5.46(d)(1);
(k) Section 5.51(c);
(l) Section 5.55(a), (b) and (c); and
(m) Section 5.65(a)(4) and (5), and (g).

Par. 11. Section 5.3 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 5.3 Forms prescribed.

(a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22153–5190, or by accessing the ATF web site (http://www.atf.treas.gov/).

* * * * *

Par. 12. A new § 5.4 is added to Subpart A to read as follows:

§ 5.4 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this part 5 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.2A, Delegation Order—Delegation of the Director's Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages. ATF delegation orders, such as ATF Order 1130.2A, are available to any interested person by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22150–5190, or by accessing the ATF web site (http://www.atf.treas.gov/).

Par. 13. Section 5.11 is amended by removing the definition ''Area supervisor'', and by adding a new definition of ''Appropriate ATF officer'' to read as follows:

§ 5.11 Meaning of terms.

* * * * *

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.2A, Delegation Order—Delegation of the Director's Authorities in 27 CFR part 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages.

* * * * *

Par. 14. The first sentence of paragraph (a) of § 5.26 is amended by removing the phrase ''with the Director''.

Par. 15. Paragraph (c) of § 5.32 is amended by removing the phrase ''by the Director''.

Par. 16. Paragraph (g) of § 5.33 is amended by removing the words ''Director or regional director (compliance)'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 17. Paragraph (f) of § 5.36 is revised as follows:

§ 5.36 Name and address.

* * * * *

(f) Trade names. The trade name of any permittee appearing on any label must be identical to the trade name listed on the permittee's basic permit.

* * * * *

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 18. The authority citation for part 7 continues to read as follows:

Authority: 27 U.S.C. 205. §§ 7.3, 7.23, 7.24, 7.25, 7.29, 7.31, 7.54 [Amended]

Par. 19. In part 7 remove the word ''Director'' each place it appears and add, in substitution, the words ''appropriate ATF officer'' in the following places:

(a) Section 7.3(a);
(b) Section 7.23(b);
(c) Section 7.24(g);
(d) Section 7.25(a);
(e) Section 7.29(a)
(4) and (5), and (d);
(f) Section 7.31(c); and
(g) Section 7.54(a)(4) and (5).

Par. 20. Section 7.3 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 7.3 Forms prescribed.

(a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22153–5190, or by accessing the ATF web site (http://www.atf.treas.gov/).

* * * * *

Par. 21. A new § 7.5 is added to subpart A to read as follows:

§ 7.5 Delegations of the Director.

Most of the regulatory authorities of the Director contained in this Part 7 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.2A, Delegation Order—Delegation of the Director's Authorities in 27 CFR parts 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages. ATF delegation orders, such as ATF Order 1130.2A, are available to any interested person by mailing a request to the ATF Distribution Center, PO Box 5950, Springfield, Virginia 22150–5190, or by accessing the ATF web site (http://www.atf.treas.gov/).

Par. 22. Section 7.10 is amended by removing the definition ''Regional director (compliance)'', and by adding a

new definition of ''Appropriate ATF officer'' to read as follows:

§ 7.10 Meaning of terms.

* * * * *

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.2A, Delegation Order—Delegation of the Director's Authorities in 27 CFR part 4, 5 and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages.

* * * * *

Par. 23. The second sentence of paragraph (c)(1) of § 7.20 is amended by removing the words ''regional director (compliance)'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 24. The first sentence of paragraph (f) of § 7.24 is amended by removing the phrase ''by the Director''.

Par. 25. Paragraph (a) of § 7.41 is revised to read as follows:

§ 7.41 Certificates of label approval.

(a) *Requirement.* No person may bottle or pack malt beverages, or remove malt beverages from the plant where bottled or packed unless an approved certificate of label approval, ATF Form 5100.31, is issued.

* * * * *

PART 16—ALCOHOLIC BEVERAGE HEALTH WARNING STATEMENT

Par. 26. The authority citation for Part 16 continues to read as follows:

Authority: 27 U.S.C. 205, 215, 218; 28 U.S.C. 2461 note.

Par. 27. Section 16.10 is amended by removing the definition of ''Director.''

Par. 28. Section 16.30 is amended by removing the phrase ''by the Director''.

Signed: August 12, 1999.

John W. Magaw,

Director.

Approved: January 3, 2000.

Dennis M. O'Connell,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 00–5360 Filed 3–6–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD09 99–081]

RIN 2115–AA98

Special Anchorage Area; Henderson Harbor, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is enlarging the existing special anchorage area in Henderson Harbor, NY. Henderson Harbor is used as a temporary anchorage area for recreational vessels to anchor without the requirement of showing anchorage lights as required by navigation rules. Enlarging this special anchorage area will replace anchorage space lost as a result of declining water levels in Lake Ontario and improve safety to vessels anchoring within this highly trafficked area.

DATES: This regulation becomes effective on April 28, 2000.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09 99–081] and are available for inspection or copying at the Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, OH, between 8 a.m. and 4 p.m. Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Lynn Goldhammer, Ninth Coast Guard District, Marine Safety Division, at (216) 902–6050.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We published a notice of proposed rulemaking concerning this regulation in the **Federal Register** on November 5, 1999 (64 FR 60399). Five comments were received during the comment period.

Background and Purpose

This rule is in response to a request from the City of Henderson, New York to enlarge the existing special anchorage area in Henderson Harbor. The intended effect of the regulation is to reduce the risk of vessel collisions by providing notice to mariners of the establishment of a special anchorage area in which vessels not more than 65 feet in length are not required to exhibit anchor lights as required by the Navigation Rules.

Discussion of Comments and Changes

Five letters were received in support of enlarging the special anchorage in Henderson Harbor. No objections were received. Two letters recommended extending the position of Buoy ''C'' in anchorage area A to create a more rectangular shape to anchorage area A. The Coast Guard considered these comments and has decided to make this change to the proposed rule.

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. The Office of Management and Budget has not reviewed this rule under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because using the anchorage area is voluntary.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–221), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or who otherwise determine compliance with Federal regulations, to the Small

Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The ombudsman evaluates these actions annually and rates each agency's responsiveness to small businesses. If you wish to comment on actions by employees of the Coast Guard, please call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the federal government having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under 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 health or safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this proposed rule and determined under Figure 2–1, paragraph 34(f) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 110

Special anchorage areas.

Final Regulation

In consideration of the foregoing, the Coast Guard amends Part 110 of Title 33, Code of Federal Regulations, as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236; 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05—1(g).

2. Section 110.87 is revised to read as follows:

§ 110.87 Henderson Harbor, N.Y.

(a) *Area A.* The area in the southern portion of Henderson Harbor west of the Henderson Harbor Yacht Club bounded by a line beginning at latitude 43°51′08.8″ N, longitude 76°12′08.9″ W, thence to latitude 43°51′09.0″ N, longitude 76°12′19.0″ W, thence to latitude 43°51′33.4″ N, longitude 76°12′19.0″ W, thence to latitude 43°51′33.4″ N, longitude 76°12′09.6″ W, thence to the point of beginning. All nautical positions are based on North American Datum of 1983.

(b) *Area B.* The area in the southern portion of Henderson Harbor north of Graham Creek Entrance Light bounded by a line beginning at latitude 43°51′21.8″ N, longitude 76°11′58.2″ W, thence to latitude 43°51′21.7″ N, longitude 76°12′05.5″ W, thence to latitude 43°51′33.4″ N, longitude 76°12′06.2″ W, thence to latitude 43°51′33.6″ N, longitude 76°12′00.8″ W, thence to the point of beginning. All nautical positions are based on North American Datum of 1983.

Note: Permission must be obtained from the Town of Henderson Harbormaster before any vessel is moored or anchored in this special anchorage area.

Dated: February 28, 2000.

James D. Hull,

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

[FR Doc. 00–5487 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–00–008]

RIN 2115–AE47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the regulations governing the operation of the State Road 706, Indiantown Road drawbridge, mile 1006.2, at Jupiter, Palm Beach County, Florida. This drawbridge has been removed and the regulations governing the operation of the drawbridge are no longer necessary.

DATES: This rule is effective March 7, 2000.

ADDRESSES: The Commander(oan), Seventh Coast Guard District, maintains the public docket for this rulemaking. The docket will be available for inspection or copying at 909 SE 1st Avenue, room 406, Miami, FL 33131 between 8 a.m. and 4 p.m. Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Evelyn Smart, Project Manager, Bridge Section, at (305) 536–6546.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This final rule removes a bridge regulation for a drawbridge that was removed in September 1997.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This final rule removes a bridge regulation for a drawbridge that was removed in 1997. Therefore, publishing a notice of proposed rulemaking or delaying the effective date of the final rule is unnecessary and the Coast Guard is proceeding to final rule, effective upon publication in the **Federal Register**.

Background and Purpose

The bridge regulations for the old State Road 706 drawbridge, locally known as the Indiantown Road Bridge, were published in the **Federal Register** on July 27, 1990 [55 FR 30689]. The regulation established draw times for

the opening of the drawbridge. This drawbridge was replaced with a higher bascule bridge and the old drawbridge has been removed from the waterway. The regulations governing the operation of the old drawbridge are no longer needed and the Coast Guard is removing 33 CFR 117.261(q).

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. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policy and procedures of DOT is unnecessary. We conclude this because the drawbridge has been removed.

Small Entities

Under the Regulatory Flexibility Act (5 USC 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises 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 Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities because the drawbridge has been replaced with a newer, higher bascule bridge and the drawbridge regulation is no longer necessary.

Assistance for Small Entities

This rule calls for no assistance for small entities under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under 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 health or risk to safety that may disproportionately affect children.

Environment

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

List of Subjects in 33 CFR Part 117

Bridges.

Final Regulations

For the reasons set out in the preamble, the Coast Guard amends 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 USC 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.

§ 117.261 [Amended]

2. In § 117.261, remove and reserve paragraph (q).

Dated: February 16, 2000.

T.W. Allen,

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

[FR Doc. 00–5489 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–15–P

NATIONAL INSTITUTE FOR LITERACY

34 CFR Part 1100

Literacy Leader Fellowship Program

AGENCY: National Institute for Literacy.

ACTION: Final regulations.

SUMMARY: The Director amends the regulations governing the Literacy Leader Fellowship Program. Under this program, the Director may award fellowships to individuals to enable them to engage in research, education, training, technical assistance, or other activities that advance the field of adult education or literacy. These amendments make changes that improve the administration of the program.

DATES: These regulations take effect March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Jennifer Cromley, Telephone No.: 202/233–2053, email jcromley@nifl.gov. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 am and 8 pm, Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Director has made minor technical changes to the regulations, as well as minor changes in § 1100.5 (definition of literacy worker) to more clearly specify that only literacy workers with five or more years experience are eligible to apply for the Literacy Leader Fellowship Program. The Director has also amended the regulations to clarify that applicants proposing to conduct family literacy projects involving the adult components of family literacy are eligible to apply. These changes are reflected in §§ 1100.1, 1100.2, 1100.3, and 1100.5. Section 1100.5 includes a new definition of family literacy that incorporates the adult components of family literacy from the statute governing the Even Start Family Literacy Program. Sections 1100.1–1100.3 also clarify that all fellowship

proposals must be related to adult or family literacy. The Director has increased the maximum size of the stipend available for the program (in § 1100.22) and instituted a requirement that fellows devote at least 60 percent of effort to the project (which may be waived at the Director's discretion) in § 1100.32. The Director has changed the residency requirements for the program, so that Fellows are encouraged, but no longer required, to spend a significant portion of their time at the Institute (§ 1100.30, with technical changes to § 1100.21(c)(2)), although Fellows are still required to make four visits to the Institute to attend quarterly meetings. In addition, the Director has added references to two applicable regulations (34 CFR 74.61 and 34 CFR 75.61) which were inadvertently omitted from the 1997 revisions.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collection of information in these final regulations is displayed at the end of the affected sections of the regulations.

List of Subjects in 34 CFR Part 1100

Adult education; Grant programs—education; Reporting and recordkeeping requirements.

The Director amends Title 34 of the Code of Federal Regulations by revising Part 1100 to read as follows:

PART 1100—NATIONAL INSTITUTE FOR LITERACY: LITERACY LEADER FELLOWSHIP PROGRAM

Subpart A—General

Sec.

1100.1 What is the Literacy Leader Fellows Program?
1100.2 Who is eligible for a fellowship?
1100.3 What types of projects may a fellow conduct under this program?
1100.4 What regulations apply?
1100.5 What definitions apply?
1100.6 What priorities may the Director establish?

Subpart B—How Does an Individual Apply for a Fellowship?

1100.10 What categories of fellowships does the Institute award?
1100.11 How does an individual apply for a fellowship?
1100.12 What applications are not evaluated for funding?

Subpart C—How Does the Director Award a Fellowship?

1100.20 How is a fellow selected?
1100.21 What selection criteria does the Director use to rate an applicant?
1100.22 How does the Director determine the amount of a fellowship?
1100.23 What payment methods may the Director use?
1100.24 What are the procedures for payment of a fellowship award directly to the fellow?
1100.25 What are the procedures for payment of a fellowship award through the fellow's employer?

Subpart D—What Conditions Must Be Met by a Fellow?

1100.30 Where may the fellowship project be conducted?
1100.31 Who is responsible for oversight of fellowship activities?
1100.32 What is the duration of a fellowship?
1100.33 What reports are required?

Authority: 20 U.S.C. 1213c(e).

Subpart A—General

§ 1100.1 What is the Literacy Leader Fellowship Program?

(a) Under the Literacy Leader Fellowship Program, the Director of the National Institute for Literacy provides financial assistance to outstanding individuals who are pursuing careers in adult education, adult literacy or the adult components of family literacy, as defined in sections 1202(e)(3) (A), (B), and (C) of the Elementary and Secondary Education Act of 1965, as amended (20 USC 6362(e)(3) (A), (B), and (C)).

(b) Fellowships are awarded to these individuals for the purpose of carrying out short-term, innovative projects that contribute to the knowledge base of the adult education or adult or family literacy field.

(c) Fellowships are intended to benefit the fellow, the Institute, and the national literacy field by providing the fellow with the opportunity to interact with national leaders in the field and make contributions to federal policy initiatives that promote a fully literate adult population.

§ 1100.2 Who is eligible for a fellowship?

(a) Only individuals are eligible to be recipients of fellowships.

(b) To be eligible for a fellowship under this program, an individual must be—

(1) A citizen or national of the United States, or a permanent resident of the United States, or an individual who is in the United States for other than temporary purposes and intends to become a permanent resident;

(2) Eligible for Federal assistance under the terms of 34 CFR 75.60 and 75.61; and

(3) Either an adult or family literacy worker or an adult learner as defined in § 1105.5.

(c) An individual who has received a fellowship award in a prior year is not eligible for another award.

(d) Several individuals may apply jointly for one award, if each individual will contribute significantly to the proposed project and if the proposed project will develop leadership for each individual.

§ 1100.3 What type of project may a fellow conduct under this program?

(a) Under the auspices of the Institute, and in accordance with the Fellowship Agreement, a Literacy Leader Fellow may use a fellowship awarded under this part to engage in research, education, training, technical assistance, or other activities that advance the field of adult education, adult or family literacy, including the training of volunteer literacy providers at the national, State, or local level.

(b) a Literacy Leader Fellow may not use a fellowship awarded under this part for any of the following:

(1) Tuition and fees for continuing the education of the applicant where this is the sole or primary purpose of the project.

(2) Planning and implementing fundraisers

(3) General program operations and administration.

(4) Activities that otherwise do not meet the purposes of the Literacy Leader Fellowship program, as described in paragraph (a) of this section.

§ 1100.4 What regulations apply?

This program is governed by the regulations in this part and the following additional regulations:

34 CFR 74.36, Intangible property;

34 CFR 74.61, Termination

34 CFR 75.60, Individuals ineligible to receive assistance

34 CFR 75.61, Certification of eligibility

34 CFR part 85, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

§ 1100.5 What definitions apply?

(a) The definitions in 34 CFR 77.1, except that the definitions of ''Applicant''; ''Application'', ''Award'', and ''Project'' do not apply to this part.

(b) Other definitions. The following definitions also apply to this part:

Adult learner means an individual over 16 years old who is pursuing or has completed some form of literacy or basic skills training, including preparation for the G.E.D.

Applicant means an individual (or more than one individual, if applying

jointly) requesting a fellowship under this program.

Application means a written request for a fellowship under this program.

Award means an amount of funds provided for fellowship activities.

Board means the National Institute for Literacy's Advisory Board established pursuant to section 242(e) of the Workforce Investment Act of 1998 (20 U.S.C. 9252(e)).

Director means the Director of the National Institute for Literacy.

Family literacy, for purposes of the Literacy Leader Fellowship Program, means any of the adult components of family literacy, as defined in sections 1202(e)(3)(A), (B), and (C) of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6362(e)(3)(A), (B), and (C)), including interactive literacy activities between parents and their children, training for parents regarding how to be the primary teacher for their children and full partners in the education of their children, or parent literacy training that leads to economic self-sufficiency.

Fellow means a recipient of a fellowship.

Fellowship means an award of financial assistance made by the Institute to an individual pursuant to section 242(d) of the Workforce Investment Act of 1998 (20 U.S.C. 9252(d)) to enable that individual to conduct research or other authorized literacy activities under the auspices of the Institute.

Fellowship Agreement means a written agreement entered into between the Institute and a fellow, which, when executed, has the legal effect of obligating the fellowship award, and which states the rights and obligations of the parties.

Institute means the National Institute for Literacy.

Literacy worker means an individual who is pursuing a career in adult literacy or family literacy (as defined above) or a related field and who has a minimum of five years of relevant academic, volunteer or professional experience in the adult literacy, family literacy, adult education, or related field. Relevant experience includes teaching, policymaking, administration, or research.

Project means the work to be engaged in by the fellow during the period of the fellowship.

Research means one or more of the following activities in literacy or education or education related fields: basic and applied research, planning, surveys, assessments, evaluations, investigations, experiments, development and demonstrations.

§ 1100.6 What priorities may the Director establish?

The Director may, through a notice published in the **Federal Register**, select annually one or more priorities for funding. These priorities may be chosen from the areas of greatest immediate concern to the Institute and may include, but are not limited to, the following areas:

(a) *Developing leadership in adult learners.* Because adult learners are the true experts on literacy, they are an important resource for the field. Their firsthand experience as ''customers'' of the literacy system can be invaluable in assisting the field in moving forward, particularly in terms of raising public awareness and understanding about literacy.

(b) *Expanding the use of technology in literacy programs.* One of the Institute's major projects is the Literacy Information aNd Communication System (LINCS), an Internet-based information system that provides timely information and abundant resources to the literacy community. Keeping the literacy community up to date in the Information Age is vital.

(c) *Improving accountability for literacy programs.* Literacy programs must develop accountability systems that demonstrate their effectiveness in helping adult learners contribute more fully in the workplace, family and community. There is growing interest in results-oriented literacy practice, especially as related to the Equipped for the Future (EFF) framework.

(d) *Raising public awareness about literacy.* The Institute is leading a national effort to raise public awareness that literacy is part of the solution to many social concerns, including health, welfare, the economy, and the well-being of children. Projects that enhance this effort will be given priority consideration.

Subpart B—How Does an Individual Apply for a Fellowship?

§ 1100.10 What categories of fellowships does the Institute award?

The Institute awards two categories of Literacy Leadership Fellowships:

(a) Literacy Worker Fellowships; and

(b) Adult Learner Fellowships.

§ 1100.11 How does an individual apply for a fellowship?

An individual shall apply to the Director for a fellowship award in response to an application notice published by the Director in the **Federal Register.** The application must describe a plan for one or more of the activities stated in § 1100.3 that the applicant proposes to conduct under the fellowship. The application must indicate which category of fellowship, as described in § 1100.10, most accurately describes the applicant. Applicants must also submit for letters for recommendation and certain forms, assurances and certifications, including the certification required under 34 CFR 75.61. For applicants who propose to conduct the fellowship project on a part-time basis while undertaking other paid employment, one of the four required letters of recommendation must be from the applicant's employer, and must include a statement that the applicant's workload will not exceed 100 percent of time. (Approved by the Office of Management and Budget under OMB Control Number 3430–0003, Expiration Date 6/30/2000.)

§ 1100.12 What applications are not evaluated for funding?

The Director does not evaluate an application if—

(a) The applicant is not eligible under § 1100.2;

(b) The applicant does not comply with all of the procedural rules that govern the submission of applications for Literacy Leader Fellowship funds;

(c) The application does not contain the information required by the Institute;

(d) The application proposes a project for which a fellow may not use the fellowship funds, as described in § 1100.3(b).

(e) The application is not submitted by the deadline stated in the application notice.

Subpart C—How Does the Director Award a Fellowship?

§ 1100.20 How is a fellow selected?

(a) The Director selects applications for fellowships on the basis of the selection criteria in § 1100.21 and any priorities that have been published in the **Federal Register** and are applicable to the selection of applications.

(b)(1) The Director may use experts from the literacy field to rank applications according to the selection criteria in § 1100.21, and then provide the top-ranked applications to the Institute's Advisory Board.

(2) The Institute's Advisory Board evaluates these applications based on the selection criteria in § 1100.21 and makes funding recommendations to the Director.

(3) The Director then determines the number of awards to be made in each fellowship category and the order in which applications will be selected for fellowships, based on the initial rank

order, recommendations by the board, and any other information relevant to any of the selection criteria, applicable priorities, or the purposes of the Literacy Leader Fellowship Program, including whether the selection of an application would increase the diversity of fellowship projects under this program.

§ 1100.21 What selection criteria does the Director use to rate an applicant?

The Director uses the following criteria in evaluating each applicant for a fellowship:

(a) *Quality of plan.* (45 points) The Director uses the following criteria to evaluate the quality of the proposed project:

(1) The proposed project deals with an issue of major concern to the literacy field.

(2) The design of the project is strong and feasible.

(3) The project addresses critical issues in an innovative way.

(4) The plan demonstrates a knowledge of similar programs and an intention, where appropriate, to coordinate with them.

(5) The applicant describes adequate support and resources for the project.

(6) The plan includes evaluation methods to determine the effectiveness of the project.

(7) The project results are likely to contribute to the knowledge base in literacy or adult education, and to federal policy initiatives in these or related areas.

(8) The project will enhance literacy or adult education practice.

(9) The project builds research capacity or improves practice within the field.

(b) *Qualifications of applicant.* (25 points) The Director uses the following criteria to evaluate the qualifications of the applicant:

(1) The applicant has a strong background in the adult or family literacy field. (Include all relevant experience, which many include experience as a volunteer or an adult learner.)

(2) The applicant has expertise in the proposed area of the project.

(3) The applicant has demonstrated the ability to complete a quality project or has shown leadership in this area.

(4) The applicant provides letters of recommendation that show strong knowledge by others in the literacy field of the applicant's background and past work.

(c) *Relevance to the Institute.* (10 points) The Director uses the following criteria to evaluate the relevance of the applicant's proposal to the Institute:

(1) The project significantly relates to the purposes and work of the Institute.

(2) The applicant proposes a minimum of four visits to the Institute for quarterly meetings (this may be adjusted according to the number of months to be served in the fellowship) and, if necessary, depending on the nature and scope of the proposed project, to spend an additional portion of the project time at the Institute.

(d) *Dissemination plan.* (10 points) the Director uses the following criteria to evaluate the quality of the dissemination plan;

(1) The applicant clearly specifies what information will be made available to the field and how this information will further the efforts of the field.

(2) The applicant describes how this information will be shared with the field (e.g., print, on-line, presentations, video, etc.).

(e) *Budget.* (10 points) The Director uses the following criteria to evaluate the budget:

(1) The budget will adequately support the project.

(2) The costs are clearly related to the objectives of the project.

(3) The budget is cost effective.

(4) The budget narrative clearly describes the budget and how costs are calculated.

§ 1100.22 How does the Director determine the amount of a fellowship?

The amount of the fellowship will not exceed $70,000, and shall consist of—

(a) A stipend, calculated on the basis of either—

(1) The fellow's current annual salary, prorated for the length of the fellowship salary reimbursement; or

(2) If a fellow has no current salary, the fellow's education and experience; and

(b) A subsistence allowance, materials allowance (covering costs of materials and supplies directly related to the completion of the project), and travel expenses (including expenses to attend quarterly meetings in Washington, DC) related to the fellowship and necessary to complete the scope of work outlined in the proposal, consistent with Title 5 U.S.C. chapter 57.

§ 1100.23 What payment methods may the Director use?

(a) Director will pay a fellowship award directly to the fellow or through the fellow's employer. The application should specify if the fellow wishes to be paid directly or through the fellow's employer.

(b) The Director considers the preferences of the fellow in determining whether to pay a fellowship award directly to the fellow or through the fellow's employer; however, the Director pays a fellowship award through the fellow's employer only if the employer enters into an agreement with the Director to comply the provisions of § 1100.25.

§ 1100.24 What are the procedures for payment of a fellowship award directly to the fellow?

(a) If the Director pays fellowship award directly to the fellow after the Director determines the amount of a fellowship award, the fellowship recipient shall submit a payment schedule to the Director for approval. The Director advises the recipient of the approved schedule.

(b) If a fellow does not complete the fellowship, or if the Institute terminates the fellowship, the fellow shall return to the Director a prorated portion of the stipend and any unused subsistence and materials allowance and travel funds at the time and in the manner required by the Director.

§ 1100.25 What are the procedures for payment of a fellowship award through the fellow's employer?

(a) If the Director pays a fellowship award through the fellow's employer, the employer shall submit a payment schedule to the Director for approval.

(b) The employer shall pay the fellow the stipend, subsistence and materials allowance, and travel funds according to the payment schedule approved by the Director. If the fellow does not complete the fellowship, the fellow shall return to the employer a prorated portion of the stipend and any unused subsistence and materials allowance and travel funds. The employer shall return the funds to the Director at the time and in the manner required by the Director. The employer shall also return to the Director any portion of the stipend, subsistence and materials allowance and travel funds not yet paid by the employer to the fellow.

Subpart D—What Conditions Must Be Met by a Fellow?

§ 1100.30 Where may the fellowship project be conducted?

(a) A fellow is encouraged to carry out all, or a portion of, the fellowship project at the Institute. At a minimum, a fellow is required to attend quarterly meetings at the National Institute for Literacy in Washington, D.C. (this may be adjusted according to the number of months served in the fellowship).

(b) Office space and logistics will be provided by the Institute when fellows are in residence at the Institute.

(c) the fellow may also be required to participate in meetings, conferences and other activities at the Departments of Education, Labor, or Health and Human Services, in Washington D.C., or in site visits to other locations, if deemed appropriate for the project being conducted.

§ 1100.31 Who is responsible for oversight of fellowship activities?

(a) All fellowship activities are conducted under the direct or general oversight of the Institute. The Institute may arrange through written agreement for another Federal agency, or another public or private nonprofit agency or organization that is substantially involved in literacy research or services, to assume direct supervision of the fellowship activities.

(b) Fellows may be assigned a peer mentor to orient them to the Federal System and Institute procedures.

§ 1100.32 What is the duration of a fellowship?

(a) The Institute awards fellowships for a period of at least three and not more than 12 months of full-time or part-time activity. Applicants proposing part-time projects must devote at least 60 percent of time to the project. The 60 percent requirement may be waived at the Director's discretion. An award may not exceed 12 months in duration. The actual period of the fellowship will be determined at the time of award based on proposed activities.

(b) In order to continue the fellowship to completion, the fellow must be making satisfactory progress as determined periodically by the Director.

(c) A fellowship may be terminated under the terms of 34 CFR 74.61.

§ 1100.33 What reports are required?

(a) A fellow shall submit fellowship results to the Institute in formats suitable for wide dissemination to policymakers and the public. These formats should include, as appropriate to the topic of the fellowship and the intended audience, articles for academic journals, newspapers, and magazines.

(b) Each fellowship agreement will contain specific provisions for how, when, and in what format the fellow will report on results, and how and to whom the results will be disseminated.

(c) A fellow shall submit a final performance report to the Director no later than 90 days after the completion of the fellowship. The report must contain a description of the activities conducted by the fellow and a thorough analysis of the extent to which, in the opinion of the fellow, the objectives of the project have been achieved. In addition, the report must include a detailed discussion of how the activities performed and results achieved could be used to enhance literacy practice in the United States. (Approved by the Office of Management and Budget under OMB Control Number 3430–0003, Expiration Date 6/30/2000.)

Dated: March 2, 2000.

Carolyn Staley,

Deputy Director, NIFL.

[FR Doc. 00–5521 Filed 3–6–00; 8:45 am]

BILLING CODE 6055–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS–FRL–6545–7]

Optional Certification Streamlining Procedures for Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines for Original Equipment Manufacturers and for Aftermarket Conversion Manufacturers; Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is adopting a fee waiver provision for vehicles certified with ''closed'' fuel systems and for vehicles certified to the Clean-Fuel vehicle (CFV) standards. EPA is also adopting a provision for calculating eligibility for a partial fee waiver for vehicles converted to operate on a gaseous fuel. EPA proposed this provision in a Notice of Proposed Rulemaking (NPRM) published on July 20, 1998, at 63 FR 38767, to provide incentives for the manufacturer of CFVs by easing the burden of certification for manufacturers of these vehicles. EPA is not adopting certain other provisions proposed in that document.

The fee waivers adopted today will be effective for the 2000 Model Year (MY) and will continue through MY 2003. This action will reduce the cost of certification for manufacturers certifying a small-volume engine family to CFV standards. In addition, it is anticipated this action will provide a financial incentive for automobile and engine manufacturers to increase the number of offerings of alternatively fueled vehicles to private owners and fleet owners. Manufacturers who qualify for the fee waivers and who have already paid their fees for 2000 MY vehicles will be eligible for a complete refund. EPA estimates that overall manufacturers will save about $100,000 during each of the next four model years due to this provision.

EFFECTIVE DATE: This rule is effective April 6, 2000.

ADDRESSES: Materials relevant to this final rule are contained in Docket No. A–97–27, located at the Air Docket, 401 M Street SW, Washington, DC 20460, and may be reviewed in Room M–1500 from 8 a.m. until 5:30 p.m. on business days. The telephone number is (202) 260–7548 and the facsimile number is (202) 260–4400. As provided in 40 CFR Part 2, EPA may charge a reasonable fee for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Clifford Tyree, Senior Project Manager, U.S. EPA, National Vehicle and Fuel Emission Laboratory, Vehicle Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105–2425. Telephone: (734) 214–4310; FAX 734–214–4053. E-Mail, tyree.clifford@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are Original Equipment Manufacturers (OEMs) of Light-Duty Vehicles, Light-Duty Trucks (LDTs), and Heavy-Duty Engine (HDEs) manufacturers. In addition, aftermarket converters of LDVs, LDTs, and HDEs will also be regulated. Entities include:

Category	Examples of regulated entities
Auto industry of light-duty vehicles, light-duty trucks, and heavy-duty engines.	Original Equipment Manufacturers (OEMs) and Aftermarket Converters.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your

product is regulated by this action, you should carefully examine the applicability criteria in § 86.094–1 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular product, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Obtaining Electronic Copies of the Regulatory Documents

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

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

2. http://www.epa.gov/OMSWWW/cff.htm

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

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I. Introduction

The goal of the proposed amendments was to ease the burden of certification for manufacturers of vehicles and engines certified with closed fuel systems and for manufacturers of Clean-Fuel vehicles (CFV), to increase the supply of such vehicles. This overall increase in the supply of such vehicles will also result in a broader selection of vehicles certified to CFV standards for fleet operators subject to the purchasing requirements of state Clean-Fuel Fleet Programs (CFFP) under section 246 of the Clean Air Act. EPA proposed to (1) Revise the definition for dedicated vehicle (or engine) in 40 CFR 86.092–90 to include CFVs with limited ability to operate on a conventional fuel, (2) amend the current regulations to allow manufacturers of CFVs to group certain engine families together for certification purposes, and (3) exempt certain manufacturers for MY 1999, 2000, and 2001, from certification fees for vehicles with closed fuel systems and for CFVs.

II. Content of the Final Rule

A. Definition of Dedicated Vehicle (or Engine)

EPA is not adopting the proposed changes to the definition of a dedicated vehicle (or engine) for the reasons described below. EPA received four comments expressing support for this provision, but also expressing concern that the proposed definition would add complexity and confusion for the consumer.

EPA proposed to revise the current definition of dedicated vehicle (or engine) to encompass vehicles with limited ability to operate on a second fuel. The emergency fuel supply of the second fuel would be limited to a fuel capacity that would only allow a 50-mile range or, operation for one hour in three hours of driving. Some commenters felt strongly that the operators would find a way to circumvent the limitations on the use of the second fuel. For example, the electronic limit of one hour of operation in three could easily be tampered with. They also felt that some operators would choose to operate on the gasoline in non-emergency situations, even if the total capacity would only allow a 50-mile range.

EPA received several comments arguing that any vehicle called ''dedicated'' should only be capable of operating on one fuel. They stated that the option of an emergency fuel supply within the definition of ''dedicated'' would erode consumer knowledge and understanding of the work they have accomplished in producing vehicles which would not have the emergency fuel supply.

EPA has considered the comments received and concludes that it is best to keep the current definition of dedicated vehicle (or engine) intact and, therefore, the proposed change is not being adopted today. EPA believes that at this time it cannot ensure that amending the definition of dedicated vehicle as proposed will not result in consumer confusion about alternative fueled vehicles. Therefore, vehicles with a limited ability to operate on a second fuel will continue to be considered dual-fueled vehicles.

B. Engine Family Criteria and Assigned Deterioration Factors

In light of recently adopted amendments to EPA's certification regulations EPA has decided not to adopt the proposed engine family criteria and assigned deterioration factors (DFs) proposed in the NPRM.[1] The flexibility that would have been provided by the proposed definition of ''Engine Family Class'' is for the most part encompassed in the ''Durability group determination'' and the ''Test group determination'' provisions of the CAP 2000 amendments.[2,3] Because the CAP 2000 amendments provide the majority of relief proposed for light-duty vehicles, it is unnecessary to adopt the proposed provisions.

The CAP 2000 rules do not apply to heavy-duty engines and the proposed durability requirements would have required specific durability data submissions for heavy-duty engines. Some commenters stated that the proposed changes were more restrictive than current regulations, therefore the heavy-duty manufacturers would not likely exercise the options that would be provided by the proposed provisions. Since the changes would have been optional and because it appears unlikely the heavy-duty engine manufacturers would use the options that would have been provided by the proposed provisions, EPA has decided not to adopt the proposed changes for heavy-duty engines.

Several commenters noted that a 1995 EPA guidance document (CD–95–14), would expire with the 2000 MY. This Agency guidance document provided assigned deterioration factors for gaseous-fueled vehicles and engines for small-volume manufacturers as provided in 40 CFR 86.094–14(a)(2) and 86.094–14(c)(7)(i)(C). The commenters noted that the Agency has previously indicated its intent to extend the

[1] 40 CFR Part 9 *et al.;* Control of Air Pollution From New Motor Vehicles; Compliance programs for New Light-Duty Vehicles and Light-Duty Trucks; Final Rule, 85 FR 23905, May 4, 1999 (the ''CAP 2000'' regulations).

[2] 40 CFR 86.1820–01 ''Durability group Determination''

[3] 40 CFR 86.1827–01 ''Test group Determination''

applicability of the assigned deterioration factors to reflect both the new sales-volume limit for small-volume manufacturers as provided in the CAP 2000 provisions and to include assigned deterioration factors for heavy-duty engines qualified to use additive deterioration factors. EPA did not indicate in the NPRM any intent to revise this guidance. This issue is outside the scope of today's action, and EPA intends to address this issue in a separate context.

C. Fees

EPA is finalizing the proposed fee waiver provisions, for the reasons described below and in the NPRM. Every commenter addressing the fees issue supported this proposed amendment.

Several commenters who supported EPA's proposal recommended expanding the scope of the fee waiver. One fleet operator recommended the fee waiver be extended indefinitely. One commenter wanted the fee waiver to be retroactive to the date of the Notice of Proposed Rulemaking, July 20, 1998. One commenter wanted all of the 1999 model year fees to be refunded for all alternative fueled vehicles. For the reasons described below, EPA is finalizing the proposed fee waiver for MY 2000 vehicles and engines meeting LEV or better emissions standards, and for MY 2000 dedicated gaseous fuel vehicles and engines. In addition, EPA is adopting a provision through which manufacturers who have certified such vehicles for MY 2000 can seek a refund of certification fees. Finally, EPA is extending the fee waiver through MY 2003, two years beyond the proposed waiver.

EPA disagrees with the commenter who recommends the fee waiver be extended indefinitely. The purpose of the fee waiver is to encourage manufacturers to produce and certify clean fuel vehicles, and gaseous fueled vehicles, as described in the NPRM. EPA does not believe that it is necessary or appropriate to provide a fee waiver beyond a specific, short-term time period as an incentive to manufacturers. Once clean fuel vehicles and gaseous fueled vehicles are certified and in use, it is reasonable to expect that consumers, including fleets, will continue to provide a market for such vehicles. Therefore, an indefinite or significantly longer term fee waiver is not needed.

EPA also does not believe it is appropriate to make the fee waiver and refunds retroactive to MY vehicles before MY2000. While EPA believes it is appropriate to provide a short-term fee waiver for certain vehicles for the reasons described in the NPRM, to the extent manufacturers certified clean fuel vehicles and gaseous fueled vehicles in prior model years, they clearly believed it was a wise business decision to do so even without the incentive provided by a fee waiver or refund. Since the purpose of the waiver is to encourage certification of such vehicles, that purpose is not served by refunding or waiving fees from prior model years.[4]

EPA received comments requesting the fee waiver extend at least through MY 2004. One commenter indicated that original equipment manufacturers (OEMs) plan for model year introduction 3 and 4 years in advance, and therefore it is appropriate for EPA to waive certification fees for those vehicles and engines which manufacturers are currently beginning to develop. Commenters also noted that EPA's emission standards are expected to be revised beginning with MY 2004, making a fee waiver through this period a convenient bridge to the new standards.

EPA is adopting a fee waiver provision for clean fuel vehicles and dedicated alternative fuel vehicles that applies through MY 2003. EPA is aware that certain fleets continue to experience difficulty in obtaining appropriate clean fuel vehicles to meet fleet program purchase requirements. Moreover, further development of the alternative fuel refueling infrastructure would help enable such fleets to have a broader choice of qualifying vehicles from which to choose. For these reasons, EPA proposed a fee waiver to extend for three model years (MY 1999–2001). Based on the effective date of today's action, a three-model-year fee waiver provision adopted today would apply through MY 2002. EPA believes that it is appropriate to extend the waiver provision for an additional model year, to encourage manufacturers to begin development of clean fuel vehicles and dedicated alternative fuel vehicles for introduction into commerce in the future. Those manufacturers who do need four years to plan for vehicle introduction are thus assured of a fee waiver for MY 2003.

EPA disagrees with commenters who recommended the fee waiver extend at least through MY 2004, to provide a bridge to implementation of EPA's Tier 2 standards. As described in this notice and in the NPRM, the fee waiver is primarily intended to encourage manufacturers to certify and produce vehicles and engines to meet the purchase requirements of fleet operators subject to clean fuel fleet program purchase requirements. It was not proposed as a means to facilitate implementation of new emissions standards. For this reason, and because EPA believes a four-model-year period is sufficient to provide an initial encouragement for the production of clean fuel vehicles and dedicated alternative fuel vehicles, EPA is not extending the fee waiver beyond MY 2003.

Several commenters wanted the fee waiver to apply to flexible- and dual-fuel vehicles. EPA is finalizing the proposal to waive fees for dedicated Tier 1 gaseous fueled vehicles, for the reasons described in the NPRM. EPA is not including Tier 1 flexible- and dual-fuel vehicles in the full fee waiver because EPA cannot ensure the vehicles will be operated using the alternative fuel. However, as described below, EPA believes it is appropriate to provide a more limited incentive for manufacturers to certify such vehicles.

One commenter claimed the need to include flexible- and dual-fuel vehicles is consistent with the Congressional intent under Energy Policy Act (EPAct) to reduce dependency on foreign oil. This fee waiver is not intended to further the purposes of EPAct, which is a statute administered by the Department of Energy (DOE). Also, for the reason already stated in the NPRM and above, the fee waiver will apply only to dedicated fuel systems.

EPA's fee waiver proposal was issued in July 1998, and, at that time, EPA expected the fee waiver would begin to apply no later than MY 2000, based on the expected date of promulgation of the final rule. However, due to the delay in taking final action on the proposed provisions, some manufacturers have already certified vehicles to the Low-Emissions Vehicles (LEV), Inherently-LEV (ILEV), Ultra LEV (ULEV), or Zero-Emissions Vehicles (ZEV) emissions standards for MY 2000. EPA is adopting a provision to refund the certification fees paid for such vehicles, as well as any dedicated gaseous fueled Tier 1 vehicles, to provide equity in charging of fees in MY 2000. EPA does not want to penalize those manufacturers who certified these cleaner vehicles early in the model year, prior to promulgation of

[4] As described below, EPA is providing an opportunity for certain manufacturers to request a refund of fees for MY 2000. This is to provide equity for all manufacturers of similar vehicles for a particular model year, and therefore the reasoning for this limited refund provision does not support extending the refund to prior model years. In addition, EPA's calculation of fees that could be refunded for MY 2000 under the provision adopted today shows that the total possible amount that could be refunded is relatively small (less than $75,000).

these regulations. Therefore, manufacturers of such vehicles can request a refund of certification fees from EPA. This refund provision, in combination with the fee waiver provision, results in an appropriate, equitable, and nondiscriminatory fee schedule, for the reasons described in the NPRM, and because it avoids penalizing manufacturers who have already certified such vehicles for MY 2000.

Several commenters noted a discrepancy between the preamble and the proposed rule. In the preamble, EPA clearly identified vehicles and engines with ''closed'' fuel systems certified to Tier 1 standards as eligible for a fee waiver.[5] The proposed amendments to the regulatory language did not reflect this provision. This oversight is corrected in today's action and any vehicle or engine with a dedicated ''closed'' fuel system is eligible. A vehicle or engine with a dual-fuel system or flexible-fuel system would not be eligible for a fee waiver. Vehicles certified only to California emissions standards would also not be eligible for a fee waiver.

One of the existing fee waiver provisions, found at 40 CFR 86.908–93(a), provides a waiver from the full fee if the projected sales are anticipated to be such that a full fee would exceed 1% of the retail value. For example, if the retail sales price—based on the National Automobile Dealer's Association appraisal—is $25,000.00, then the manufacturer would pay 1% of this value or $250.00 for each vehicle until the maximum applicable fee is reached. Several commenters recommended EPA change the way the 1% value was determined. These commenters argued that the value added during the conversion process is the value that should be the basis of the 1% fee waiver calculations. EPA agrees that the calculation method for the one percent waiver in the current regulations often results in manufacturers paying the full certification fee for conversions where production volume exceeds approximately one hundred vehicles or engines. Under the regulations adopted today, conversions to clean fuel vehicles or to dedicated gaseous fueled Tier 1 vehicles would be eligible for a full fee waiver. However, conversions to dual- and flexible-fueled Tier 1 vehicles would not. EPA believes it is appropriate to provide an incentive for certification of such vehicles, since they are likely to operate on a cleaner fuel (*e.g.,* gaseous fuel, with lower evaporative and refueling emissions) at least some of the time. While EPA cannot ensure that such vehicles operate on the cleaner fuel all of the time, the Agency believes that consumers who purchase dual-and flexible-fueled vehicles do so because they intend to operate on the cleaner fuel to the extent practicable, but wish to have the ability to operate on gasoline or diesel in the event refueling facilities for the cleaner fuel are not readily available at a particular time. Encouraging the certification, production, and market penetration of these vehicles will also support a broader refueling infrastructure for gaseous fuels, which benefits the clean fuel fleet program (since a number of clean fuel fleet vehicles are expected to be gaseous fueled vehicles). In addition, to the extent such vehicles are operated on gaseous fuels, environmental benefits are achieved through lower evaporative and refueling emissions. For these reasons, EPA is revising its current regulations for converted vehicles that can operate on gaseous fuels to provide for calculation of the one percent fee waiver based on the value added to the retail value of the vehicle, or engine, by the conversion. This calculation method will apply through MY 2003 (the same time period as the full fee waiver for clean fuel vehicles and Tier 1 dedicated gaseous fuel systems). While EPA believes this incentive in the form of a different calculation method for the one percent waiver is an appropriate incentive for encouraging the production of such vehicles, the Agency does not believe a full fee waiver is appropriate, since we cannot ensure that the vehicles will be operated on the cleaner fuel.

[5] *See* 63 FR 38771.

III. Projected Impacts

A. Environmental Impact

Today's action will have no adverse effects on air quality, since all current emissions standards and requirements continue to apply to vehicles and engines affected by today's action. EPA believes that this action encourages manufacturers to develop and market vehicles and engines with innovative, new emissions control technology, ultimately resulting in broader market penetration of CFVs and clean alternative fuels.

B. Economic Impact

By waiving certification fees for qualifying vehicles, this action reduces the regulatory burden on industry without adversely affecting air quality. EPA anticipates that the new provisions should result in environmental benefits through encouraging increased production and use of low emission vehicles and engines.

IV. Public Participation

The Agency provided the opportunity for a Public Hearing for the proposed rule, if requested. No public hearing was requested. An extension of the comment period was requested and, in a **Federal Register** notice on September 11, 1998, the comment period was extended from August 19, 1998 to October 13, 1998. This Notice also informed interested parties that no public hearing had been requested.

A total of twenty-eight comments were received. A summary of these comments and EPA's analysis and responses to those comments are contained in a separate Response To Comments document located in the Docket A–97–27.

V. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

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

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

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

It has been determined that this rule is not a ''significant regulatory action'' under the terms of the Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612 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 EPA is not imposing any new requirements, and any impact will be to reduce costs.

C. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, requires agencies to submit for OMB review and approval, federal requirements and activities that result in the collection of information from ten or more persons. Information collection requirements may include reporting, labeling, and Recordkeeping requirements. Federal agencies may not impose penalties on persons who fail to comply with collections of information that does not display a currently valid OMB control number.

Today's action does not impose any new information collection burden. The Office of Management and Budget (OMB) has previously approved the information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0104 (EPA ICR No. 0783).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instruction; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirement; train personnel to be able to respond to a collection of information; search for data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the ICR document(s) may be obtained from Sandy Farmer, OPPE Regulatory Information Division; EPA; 401 M St., SW (mail code 2137); Washington, DC 20460 or by calling (202) 260–2740. Include the ICR and/or OMB number in any correspondence.

D. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (signed into law on March 22, 1995) requires that EPA prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 of the Unfunded Mandates Reform Act requires EPA to establish a plan for obtaining input from and informing, educating and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this rule is expected to result in the expenditure by state, local and tribal governments or private sectors of less than $100 million in any one year, EPA has not prepared a budgetary impact statement or specifically addressed selection of the least costly, most cost-effective or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, EPA is not required to develop a plan with regard to small governments.

E. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

F. 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 doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (such as 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 final rule does not involve consideration of any new technical standards.

G. Protection of Children

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

This final rule is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe environmental health or safety risks addressed by this action present a disproportionate risk to children. To the extent this action encourages the certification and use of CFVs, as expected, any resulting effect on children's health will be positive through reduced emissions of certain pollutants, such as VOC's, NOX, and PM.

H. Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written

communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. This rule will be implemented at the federal level and imposes compliance obligations only on private industry. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

I. Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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. This rule will be implemented at the federal level and imposes compliance obligations only on private industry. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. Executive Order 13132, Federalism Policies

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.

Today's rule does not create a mandate on State or local. The rule does not impose any enforceable duties on these entities. This rule will be implemented at the federal level and imposes compliance obligations only on private industry. Accordingly, the requirements of Executive Order 13132 do not apply to this rule.

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt State or local law, even if those rules do not have federalism implications (*i.e.,* the rules will not have substantial direct effects on the States, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government). Those requirements include providing all affected State and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, EPA also must consult, to the extent practicable, with appropriate State and local officials regarding the conflict between State law and Federally protected interests within the agency's area of regulatory responsibility.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule contains provisions for waivers of certification fees for certain manufacturers of new motor vehicles and engines. The requirements of the rule will be enforced by the federal government at the national level. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. In addition, EPA provided state and local officials an opportunity to comment on the proposed regulations. A summary of concerns raised by commenters, including state and local commenters, and EPA's response to those concerns, is found in the Response to Comments document for this rulemaking.

Although this rule was proposed before the November 2, 1999 effective date of Executive Order 13132, EPA provided State and local officials notice and an opportunity for appropriate participation when it published the proposed rule, as described above. Thus, EPA has complied with the requirements of section 4 of the Executive Order.

VI. Statutory Authority

Authority for the actions set forth in this notice of proposed rulemaking is granted to the EPA by sections 217, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7552 and 7601(a))

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 24, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I, title 40 of the Code

of Federal Regulations is amended as follows:

PART 86—[AMENDED]

1. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 86.908–93 is amended by adding paragraphs (a)(1)(iii) and (d) to read as follows:

§ 86.908–93 Waivers, and refunds.

(a) * * *

(1) * * *

(iii) For converted vehicles that are dual- or flexible-fuel vehicles and can operate on a gaseous fuel, the full fee for a certification request for a MY exceeds 1% of the value added to the vehicle by the conversion, for MY 2000 through 2003.

* * * * *

(d)(1) For model years 2000 through 2003, the required fees under this subpart shall be waived for any light-duty vehicle, light-duty truck, or heavy-duty engine family that meets the small volume sales requirements of § 86.1838–01 and:

(i) Is a dedicated gaseous-fueled vehicle or engine OR;

(ii) Receives a certificate of conformity with the LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR part 88.

(2) If the manufacturer does not receive a certificate of conformity with the LEV, ILEV, ULEV, or ZEV emissions standards in 40 CFR part 88 as required in paragraph (d)(1)(iii) of this section, the fee requirements of this section will apply. Before any certificate can be issued, the applicable fee must be paid.

(3) Manufacturers that have paid certification fees for model year 2000 vehicle and engine families that meet the criteria in paragraph (d)(1) of this section may request a refund of such fees. EPA shall refund such fees if it determines that the vehicle or engine family meets the criteria of paragraph (d)(1) of this section.

[FR Doc. 00–5388 Filed 3–6–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 91, 115, 132, 133, 134, 189, and 199

[USCG–1999–4976]

RIN 2115–AF73

Frequency of Inspection

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard published a final rule in the **Federal Register** of February 9, 2000, concerning vessel inspection regulations (65 FR 6494). The rule established a 5-year Certificate of Inspection cycle in accordance with the Coast Guard Authorization Act of 1996 to harmonize our inspections with most internationally required certificates. This document corrects errors in that final rule.

DATES: Effective on March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Don Darcy, Office of Standards Evaluation and Development (G–MSR–2), Coast Guard, telephone 202–267–1200.

SUPPLEMENTARY INFORMATION:

Background

The Frequency of Inspection final rule established a 5-year Certificate of Inspection cycle to harmonize our inspections with internationally required certificates. We published the final rule to establish frequency of inspection requirements to meet the International Convention for the Safety of Life at Sea, 1974, and the International Convention on Load Line compliance date of February 3, 2000. Adopting a 5-year COI, with interval annual inspections, and a periodic inspection provides vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections, while continuing to ensure that U.S. vessels meet international standards and comply with international law.

Need for Correction

As published, the final rule contains typographical errors that may mislead the reader and need to be corrected.

Correction of Publication

Accordingly, the publication on February 9, 2000, of the final rule [USCG–1999–4976], which was the subject of FR Doc. 00–2812, is corrected as follows:

§§ 91.25–20(A) and 91.27–13 [Amended]

1. On page 6501, in § 91.25–20(a) introductory text, remove the number ''§ 91.15–60'' and add, in its place, the number ''§ 97.15–60''

2. On page 6502, in § 91.27–13—

a. In paragraph (c), capitalize the first letter of the word ''officer'';

b. In paragraph (d)(3), in the second sentence, capitalize the first letters of the words ''certificate'' and ''inspection'' in the phrase ''certificate of inspection''; and

c. In paragraphs (d)(5)(iii), immediately following the words ''noted during the'', remove the words ''during the''.

§ 115.404 [Amended]

3. On page 6504, in § 115.404(b), immediately following the words ''expiration date of'', remove the word ''the''.

PART 132—[AMENDED]

4. On page 6507, in the authority citation for part 132, remove the number ''449'' and add, in its place, the number ''49''.

PART 133—[AMENDED]

5. On page 6507, in the authority citation for part 133, remove the number ''449'' and add, in its place, the number ''49''.

PART 134—[AMENDED]

6. On page 6507, in the authority citation for part 134, remove the number ''449'' and add, in its place, the number ''49''.

§ 189.25–47 [Amended]

7. On page 6509, in the amendatory instruction for § 189.25–47, remove the periods within quotation marks that immediately follow the words ''inspection for certification'' and ''and periodic inspection''.

PART 199— [AMENDED]

8. On page 6510, in the authority citation for part 199, remove the words ''46 CFR'' and add, in their place, the words ''49 CFR''.

Dated: February 28, 2000.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 00–5488 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 385

[Docket No. FMCSA–6789 (Formerly FHWA 97–2252)]

RIN 2126–AA43

Safety Fitness Procedures; Safety Fitness Rating Methodology

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the Safety Fitness Rating Methodology (SFRM) in appendix B to 49 CFR part 385 by updating the list of acute and critical regulations to conform to several regulatory removals and substantive

amendments. As a result of earlier rulemaking, several of the citations in the list must be changed to reflect the amendments and revisions to the Federal Motor Carrier Safety Regulations (FMCSRs). The SFRM is used to measure the safety fitness of motor carriers against the safety fitness standard in 49 CFR part 385.

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Hill, Regulatory Development Division, Office of Policy and Program Development, FMCSA, (202) 366–4009, or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration (FHWA), 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

In October 1999, the Secretary of Transportation rescinded the authority previously delegated to the Federal Highway Administrator to perform motor carrier functions and operations. That authority was redelegated to the Director of the Office of Motor Carrier Safety (OMCS), a new office within the Department of Transportation (DOT) (64 FR 56270, October 19, 1999 and 64 FR 58356, October 29, 1999). Shortly thereafter, however, the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106–159, 113 Stat. 1748, December 9, 1999) created the Federal Motor Carrier Safety Administration (FMCSA) as a new operating administration of the DOT, effective January 1, 2000. The Secretary therefore rescinded the authority so recently delegated to the Director of the OMCS and redelegated that authority to the Administrator of the FMCSA (65 FR 220, January 4, 2000). This explains the docket transfer.

The new FMCSA assumes the motor carrier functions previously exercised by the OMCS and, before that, by the FHWA's Office of Motor Carriers. Ongoing rulemaking, enforcement, and other activities initiated by the OMCS or the FHWA will be continued by the FMCSA. The motor carrier functions performed by the FHWA's Division (i.e., State) offices and Resource Centers have been assumed by the FMCSA Division offices and FMCSA Resource Centers. All phone numbers remain unchanged for the time being.

On November 6, 1997, the FHWA published a final rule incorporating the agency's SFRM as an appendix to 49 CFR part 385, Safety Fitness Procedures (62 FR 60035). The SFRM is used to measure the safety fitness of motor carriers against the standard contained in 49 CFR part 385. On November 10, 1998 (63 FR 62957) the FHWA published amendments to the rule which corrected several minor errors. Other changes are also necessary, however.

The FHWA published a final rule on June 18, 1998 (63 FR 33254) which removed, amended, and redesignated certain provisions of the FMCSRs. Furthermore, a technical amendment was published on July 11, 1997 (62 FR 37150) which removed subpart H (Controlled Substances Testing) of 49 CFR part 391; the alcohol and controlled substances regulations are now codified at 49 CFR part 382. Another technical amendment was published on December 12, 1994 (59 FR 63921) which revised existing hazardous material classifications and descriptions to conform with the United Nations' Recommendations on the Transportation of Dangerous Goods.

As a result of these rulemakings, several of the citations in the list of acute and critical regulations must be changed to reflect the appropriate sections of the FMCSRs. This document amends the List of Acute and Critical Regulations to conform to these regulatory removals and substantive amendments. The List of Acute and Critical Regulations in appendix B to part 385, Section VII, is being reprinted in its entirety for ease of reference.

List of Acute and Critical Regulations

The following section is being removed from the List of Acute and Critical Regulations, as indicated by the table printed below: § 391.11(a)/391.95 Using an unqualified driver, a driver who has tested positive for controlled substances, or refused to be tested as required (acute). This removal is necessary to conform to the above July 11, 1997 technical amendment (62 FR 37150), which also removed subpart H (Controlled Substances Testing) of 49 CFR part 391; the alcohol and controlled substances regulations are now codified at 49 CFR part 382. The following sections are also being removed: § 391.51(c)(1) Failing to maintain medical examiner's certificate in driver's qualification file (critical); and § 391.51(d)(1) Failing to maintain medical examiner's certificate in driver's qualification file (critical). These removals are necessary to conform to a final rule published on June 18, 1998 (63 FR 33254), which removed, amended, and redesignated certain regulations which the FHWA considered obsolete, redundant, unnecessary, ineffective, burdensome, or that could better be addressed by State or local authorities or company policy.

The following sections are being redesignated: § 391.11(b)(6) Using a physically unqualified driver (acute); § 391.51(b)(1) Failing to maintain medical examiner's certificate in driver's qualification file (critical); and § 391.51(c)(3) Failing to maintain inquiries into driver's driving record in driver's qualification file (critical). Sections 395.1(i)(1)(i), 395.1(i)(1)(ii), 395.1(i)(1)(iii), and 395.1(i)(1)(iv), are redesignated as §§ 395.1(h)(1)(i), 395.1(h)(1)(ii), 395.(h)(1)(iii), and 395.1(h)(1)(iv) (critical) regulations, respectively. These redesignations are necessary to conform the final rule published on June 18, 1998 (63 FR 33254). Section 382.115(c) Failing to implement an alcohol and/or controlled substance testing program (acute) is being redesignated as § 382.115(a). This redesignation is necessary to correct an error introduced by technical amendments published on July 11, 1997 (62 FR 37150) which redesignated § 382.115(c) to specify the starting dates for testing programs for small foreign employers. However, § 382.115(c), as originally adopted in 1994, applied only to U.S. domestic carriers, which are now referred to in § 382.115(a); the reference to paragraph (c) is therefore being replaced with paragraph (a). Section 395.3(b) Requiring or permitting driver to drive after having been on duty more than 60 hours in 7 consecutive days (critical) and § 395.3(b) Requiring or permitting driver to drive after having been on duty more than 70 hours in 8 consecutive days (critical), are being redesignated as § 395.3(b)(1) and § 395.3(b)(2), respectively, to more accurately reflect the paragraphs in § 395.3(b). The table below shows the new section numbers.

The sections listed here are revised to read as follows: § 382.213(b) Using a driver known to have used a controlled substance (acute); § 382.215 Using a driver known to have tested positive for a controlled substance (acute); § 382.305(b)(1) Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions (critical); § 382.305(b)(2) Failing to conduct random controlled

substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions (critical); § 382.503 Allowing a driver to perform safety sensitive function, after engaging in conduct prohibited by subpart B, without being evaluated by substance abuse professional, as required by § 382.605 (critical); § 383.37(a) Knowingly allowing, requiring, permitting, or authorizing an employee with a commercial driver's license which is suspended, revoked, or canceled by a state or who is disqualified to operate a commercial motor vehicle (acute); § 383.37(b) Knowingly allowing, requiring, permitting, or authorizing an employee with more than one commercial driver's license to operate a commercial motor vehicle (acute); § 391.45(b) Using a driver not medically examined and certified during the preceding 24 months (critical); and § 392.5(b)(2) Requiring or permitting a driver who shows evidence of having consumed an intoxicating beverage within 4 hours to operate a motor vehicle (acute). These revisions are necessary to make it clear that the testing rates for alcohol and controlled substances are dependent on the violation rates for the industry, or to have the revised descriptions more closely match the regulatory language in each section.

The following revisions are necessary to conform to the December 12, 1994, technical amendments which revised existing hazardous materials classifications and descriptions: Section 397.5(a) Failing to ensure a motor vehicle containing Division 1.1, 1.2, or 1.3 (explosive) material is attended at all times by its driver or a qualified representative (acute); § 397.7(a)(1) Parking a motor vehicle containing Division 1.1, 1.2, or 1.3 materials within 5 feet of traveled portion of highway or street (critical); § 397.7(b) Parking a motor vehicle containing hazardous material(s) other than Division 1.1, 1.2, or 1.3 materials within 5 feet of traveled portion of highway or street (critical); § 397.13(a) Permitting a person to smoke or carry a lighted cigarette, cigar or pipe within 25 feet of a motor vehicle containing Class 1 materials, Class 5 materials, or flammable materials classified as Division 2.1, Class 3, Divisions 4.1 and 4.2 (critical); and § 397.19(a) Failing to furnish driver of motor vehicle transporting Division 1.1, 1.2, or 1.3 (explosive) materials with a copy of the rules of part 397 and/or emergency response instructions (critical); and § 397.67(d) Requiring or permitting the operation of a motor vehicle containing explosives in Class 1, Divisions 1.1, 1.2, or 1.3 that is not accompanied by a written route plan (critical).

The following sections are revised to more closely match the regulatory language: Section 382.201 Using a driver known to have an alcohol concentration of 0.04 or greater (acute); § 382.605(c)(2)(ii) Failing to subject a driver who has been identified as needing assistance to at least six unannounced follow-up alcohol and/or controlled substances tests in the first 12 months following the driver's return to duty (critical); § 383.51(a) Knowingly allowing, requiring, permitting, or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle (acute); § 387.31(d) Failing to maintain at principal place of business required proof of financial responsibility for passenger carrying vehicles (critical); § 396.11(c) Failing to correct Out-of-Service defects listed by driver in a driver vehicle inspection report before the vehicle is operated again (acute); and § 177.841(e) Transporting a package bearing a poison label in the same transport vehicle with material marked or known to be foodstuff, feed, or any edible material intended for consumption by humans or animals unless an exception in § 177.841(e)(i) or (ii) is met (acute).

For ease of reference the following distribution table is provided. Acute or critical regulations not listed in the left-hand column have not been changed.

Current acute or critical regulation	Corrected acute or critical regulation
382.115(c)	382.115(a).
382.201	Revised.
382.213(b)	Revised.
382.215	Revised.
382.305(b)(1)	Revised.
382.305(b)(2)	Revised.
382.503	Revised.
382.605(c)(2)(ii)	Revised.
383.37(a)	Revised.
383.37(b)	Revised.
383.51(a)	Revised.
387.31(d)	Revised.
391.11(a)/391.95	Removed.
391.11(b)(6)	391.11(b)(4).
391.45(b)	391.45(b)(1).
391.51(b)(1)	391.51(b)(7).
391.51(c)(1)	Removed.
391.51(c)(3)	391.51(b)(2).
391.51(d)(1)	Removed.
392.5(b)(2)	Revised.
395.3(b)	395.3(b)(1).
395.3(b)	395.3(b)(2).
395.51(i)(1)(i)	395.51(h)(1)(i).
395.51(i)(1)(ii)	395.51(h)(1)(ii).
395.51(i)(1)(iii)	395.51(h)(1)(iii).
395.51(i)(1)(iv)	395.51(h)(1)(iv).
396.11(c)	Revised.
397.5(a)	Revised.
397.7(a)(1)	Revised.
397.7(b)	Revised.
397.13(a)	Revised.
397.19(a)	Revised.
397.67(d)	Revised.
177.841(e)	Revised.

Rulemaking Analyses and Notices

This final rule makes corrections to the List of Acute and Critical Regulations under section VII of appendix B to part 385. Because these amendments simply update the rule to conform to several regulatory removals or substantive amendments adopted in other notices and entail no further substantive revisions, the FMCSA finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to promulgate this final rule without notice and comment and to make it effective on the date of publication in the **Federal Register** pursuant to 5 U.S.C. 553(d)(3).

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866. The agency has also determined that this action is not a significant regulatory action under the DOT's regulatory policies and procedures. This final rule is clerical in nature and does not include substantive changes to 49 CFR part 385, appendix B.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FMCSA has evaluated the effects of this rule on small entities and has determined that it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532).

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 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 health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 385

Highway safety, Motor carriers, and Safety fitness procedures.

Issued on: February 22, 2000.

Julie Anna Cirillo,

Acting Deputy Administrator.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Chapter III, part 385 is amended as set forth below:

PART 385—SAFETY FITNESS PROCEDURES

1. Revise the authority citation for part 385 to read as follows:

Authority: 49 U.S.C. 104, 504, 521(b)(5)(A), 5113, 31136, 31144, 31502; and 49 CFR 1.73.

2. Revise Section VII, List of Acute and Critical Regulations, of appendix B to part 385 to read as follows:

Appendix B to Part 385 Explanation of Safety Rating Process

* * * * *

VII. List of Acute and Critical Regulations.

§ 382.115(a)
Failing to implement an alcohol and/or controlled substances testing program (domestic motor carrier) (acute).

§ 382.201
Using a driver known to have an alcohol concentration of 0.04 or greater (acute).

§ 382.211
Using a driver who has refused to submit to an alcohol or controlled substances test required under part 382 (acute).

§ 382.213(b)
Using a driver known to have used a controlled substance (acute).

§ 382.215
Using a driver known to have tested positive for a controlled substance (acute).

§ 382.301(a)
Using a driver before the motor carrier has received a negative pre-employment controlled substance test result (critical).

§ 382.303(a)
Failing to conduct post accident testing on driver for alcohol and/or controlled substances (critical).

§ 382.305
Failing to implement a random controlled substances and/or an alcohol testing program (acute).

§ 382.305(b)(1)
Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions (critical).

§ 382.305(b)(2)
Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions (critical).

§ 382.309(a)
Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 (acute).

§ 382.309(b)
Using a driver who has not undergone a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances (acute).

§ 382.503
Allowing a driver to perform safety sensitive function, after engaging in conduct prohibited by subpart B, without being evaluated by substance abuse professional, as required by § 382.605 (critical).

§ 382.505(a)
Using a driver within 24 hours after being found to have an alcohol concentration of 0.02 or greater but less than 0.04 (acute).

§ 382.605(c)(1)
Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than .02 or with verified negative test result, after engaging in conduct prohibited by part 382 subpart B (acute).

§ 382.605(c)(2)(ii)
Failing to subject a driver who has been identified as needing assistance to at least six unannounced follow-up alcohol and/or controlled substance tests in the first 12 months following the driver's return to duty (critical).

§ 383.23(a)
Operating a commercial motor vehicle without a valid commercial driver's license (critical).

§ 383.37(a)
Knowingly allowing, requiring, permitting, or authorizing an employee with a commercial driver's license which is suspended, revoked, or canceled by a state or who is disqualified to operate a commercial motor vehicle (acute).

§ 383.37(b)
Knowingly allowing, requiring, permitting, or authorizing an employee with more than one commercial driver's license to operate a commercial motor vehicle (acute).

§ 383.51(a)
Knowingly allowing, requiring, permitting, or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle (acute).

§ 387.7(a)
Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage (acute).

§ 387.7(d)
Failing to maintain at principal place of business required proof of financial responsibility (critical).

§ 387.31(a)
Operating a passenger carrying vehicle without having in effect the required minimum levels of financial responsibility (acute).

§ 387.31(d)
Failing to maintain at principal place of business required proof of financial responsibility for passenger carrying vehicles (critical).

§ 390.15(b)(2)
Failing to maintain copies of all accident reports required by State or other governmental entities or insurers (critical).
§ 390.35
Making, or causing to make fraudulent or intentionally false statements or records and/or reproducing fraudulent records (acute).
§ 391.11(b)(4)
Using a physically unqualified driver (acute).
§ 391.15(a)
Using a disqualified driver (acute).
§ 391.45(a)
Using a driver not medically examined and certified (critical).
§ 391.45(b)(1)
Using a driver not medically examined and certified during the preceding 24 months (critical).
§ 391.51(a)
Failing to maintain driver qualification file on each driver employed (critical).
§ 391.51(b)(2)
Failing to maintain inquiries into driver's driving record in driver's qualification file (critical).
§ 391.51(b)(7)
Failing to maintain medical examiner's certificate in driver's qualification file (critical).
§ 392.2
Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated (critical).
§ 392.4(b)
Requiring or permitting a driver to drive while under the influence of, or in possession of, a narcotic drug, amphetamine, or any other substance capable of rendering the driver incapable of safely operating a motor vehicle (acute).
§ 392.5(b)(1)
Requiring or permitting a driver to drive a motor vehicle while under the influence of, or in possession of, an intoxicating beverage (acute).
§ 392.5(b)(2)
Requiring or permitting a driver who shows evidence of having consumed an intoxicating beverage within 4 hours to operate a motor vehicle (acute).
§ 392.6
Scheduling a run which would necessitate the vehicle being operated at speeds in excess of those prescribed (critical).
§ 392.9(a)(1)
Requiring or permitting a driver to drive without the vehicle's cargo being properly distributed and adequately secured (critical).
§ 395.1(h)(1)(i)
Requiring or permitting a driver to drive more than 15 hours (Driving in Alaska) (critical).
§ 395.1(h)(1)(ii)
Requiring or permitting a driver to drive after having been on duty 20 hours (Driving in Alaska) (critical).
§ 395.1(h)(1)(iii)
Requiring or permitting driver to drive after having been on duty more than 70 hours in 7 consecutive days (Driving in Alaska) (critical).
§ 395.1(h)(1)(iv)
Requiring or permitting driver to drive after having been on duty more than 80 hours in 8 consecutive days (Driving in Alaska) (critical).
§ 395.3(a)(1)
Requiring or permitting driver to drive more than 10 hours (critical).
§ 395.3(a)(2)
Requiring or permitting driver to drive after having been on duty 15 hours (critical).
§ 395.3(b)(1)
Requiring or permitting driver to drive after having been on duty more than 60 hours in 7 consecutive days (critical).
§ 395.3(b)(2)
Requiring or permitting driver to drive after having been on duty more than 70 hours in 8 consecutive days (critical).
§ 395.8(a)
Failing to require driver to make a record of duty status (critical).
§ 395.8(e)
False reports of records of duty status (critical).
§ 395.8(i)
Failing to require driver to forward within 13 days of completion, the original of the record of duty status (critical).
§ 395.8(k)(1)
Failing to preserve driver's record of duty status for 6 months (critical).
§ 395.8(k)(1)
Failing to preserve driver's records of duty status supporting documents for 6 months (critical).
§ 396.3(b)
Failing to keep minimum records of inspection and vehicle maintenance (critical).
§ 396.9(c)(2)
Requiring or permitting the operation of a motor vehicle declared ''out-of-service'' before repairs were made (acute).
§ 396.11(a)
Failing to require driver to prepare driver vehicle inspection report (critical).
§ 396.11(c)
Failing to correct Out-of-Service defects listed by driver in a driver vehicle inspection report before the vehicle is operated again (acute).
§ 396.17(a)
Using a commercial motor vehicle not periodically inspected (critical).
§ 396.17(g)
Failing to promptly repair parts and accessories not meeting minimum periodic inspection standards (acute).
§ 397.5(a)
Failing to ensure a motor vehicle containing Division 1.1, 1.2, or 1.3 (explosive) material is attended at all times by its driver or a qualified representative (acute).
§ 397.7(a)(1)
Parking a motor vehicle containing Division 1.1, 1.2, or 1.3 materials within 5 feet of traveled portion of highway or street (critical).
§ 397.7(b)
Parking a motor vehicle containing hazardous material(s) other than Division 1.1, 1.2, or 1.3 materials within 5 feet of traveled portion of highway or street (critical).
§ 397.13(a)
Permitting a person to smoke or carry a lighted cigarette, cigar or pipe within 25 feet of a motor vehicle containing Class 1 materials, Class 5 materials, or flammable materials classified as Division 2.1, Class 3, Divisions 4.1 and 4.2 (critical).
§ 397.19(a)
Failing to furnish driver of motor vehicle transporting Division 1.1, 1.2, or 1.3 (explosive) materials with a copy of the rules of part 397 and/or emergency response instructions (critical).
§ 397.67(d)
Requiring or permitting the operation of a motor vehicle containing explosives in Class 1, Divisions 1.1, 1.2, or 1.3 that is not accompanied by a written route plan (critical).
§ 171.15
Carrier failing to give immediate telephone notice of an incident involving hazardous materials (critical).
§ 171.16
Carrier failing to make a written report of an incident involving hazardous materials (critical).
§ 177.800(c)
Failing to instruct a category of employees in hazardous materials regulations (critical).
§ 177.817(a)
Transporting a shipment of hazardous materials not accompanied by a properly prepared shipping paper (critical).
§ 177.817(e)
Failing to maintain proper accessibility of shipping papers (critical).
§ 177.823(a)
Moving a transport vehicle containing hazardous material that is not properly marked or placarded (critical).
§ 177.841(e)
Transporting a package bearing a poison label in the same transport vehicle with material marked or known to be foodstuff, feed, or any edible material intended for consumption by humans or animals unless an exception in § 177.841(e)(i) or (ii) is met (acute).
§ 180.407(a)
Transporting a shipment of hazardous material in cargo tank that has not been inspected or retested in accordance with § 180.407 (critical).
§ 180.407(c)
Failing to periodically test and inspect a cargo tank (critical).
§ 180.415
Failing to mark a cargo tank which passed an inspection or test required by § 180.407 (critical).
§ 180.417(a)(1)
Failing to retain cargo tank manufacturer's data report certificate and related papers, as required (critical).
§ 180.417(a)(2)
Failing to retain copies of cargo tank manufacturer's certificate and related

papers (or alternative report) as required (critical).

[FR Doc. 00–5471 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990422103–9209–02; 031099B]

RIN 0648–AL75

Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Extension of an Interim Rule

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

ACTION: Extension of expiration date.

SUMMARY: NMFS issues this notification to inform the public that the interim rule published on September 9, 1999, to implement conservation equivalencies for the summer flounder fishery is extended through September 5, 2000. Without this extension, the interim rule would expire on March 9, 2000. The extension allows states to continue to implement measures for the summer flounder recreational fishery that are alternatives to the annual Federal measures, yet achieve a reduction in fishing mortality equivalent to that achieved by the annual Federal measures.

DATES: The rule, effective September 2, 1999, through March 9, 2000, extends its expiration date from March 9, 2000, to September 5, 2000.

ADDRESSES: Copies of the Environmental Assessment (EA) and Regulatory Impact Review (RIR) prepared for the initial action are available from: Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION:

Background

An interim rule implementing conservation equivalencies for the summer flounder recreational fishery was published on September 9, 1999 (64 FR 48965), and will expire on March 9, 2000. The interim rule allows states to select a combination of minimum fish sizes, possession limits, and closed seasons to meet a target reduction in the recreational harvest limit for summer flounder. A combination of these measures must accomplish the same reduction as those implemented for the recreational fishery in the Exclusive Economic Zone (EEZ). Under the interim rule, states that wish to implement equivalent measures must submit proposed management options to the Atlantic States Marine Fisheries Commission (Commission) for approval. Once the Commission approves a state equivalency proposal, the Commission is required to recommend to NMFS that notification be published in the **Federal Register** to waive the default measures implemented for the EEZ and notify the public of equivalent measures.

The interim rule allowed for the implementation and publication of conservation equivalencies for the 1999 fishery. To provide the same mechanism for the 2000 fishery, the effectiveness of this rule must be extended. The Mid-Atlantic Fishery Management Council (Council) has included conservation equivalency as part of its recommended management measures for 2000. In addition, the Council is preparing an amendment to the Fishery Management Plan for Summer Flounder, Scup, and Black Sea Bass to implement conservation equivalency on a permanent basis; however, the amendment is not yet complete. Because the interim rule will expire on March 9, 2000, NMFS finds it necessary to extend the interim rule to allow the establishment of conservation equivalencies for the 2000 fishery. This extension is effective through September 5, 2000.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 1, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.107(a), the first sentence is revised to read as follows:

§ 648.107 Conservation equivalent measures for the recreational summer flounder fishery.

(a) Through September 5, 2000, states may implement on an annual basis conservation equivalent measures that reduce the recreational catch to the same extent as the annual Federal summer flounder measures specified under § 648.100(c) to achieve the recreational harvest limit in any year.* * *

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[FR Doc. 00–5517 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211039–0039–01; I.D. 111899A]

Fisheries of the Exclusive Economic Zone Off Alaska; Final 2000 Harvest Specifications for Groundfish; Correction

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

ACTION: Final 2000 harvest specifications; correction.

SUMMARY: NMFS published final 2000 harvest specifications for the groundfish fishery of the Gulf of Alaska (GOA) on February 18, 2000. These final 2000 harvest specifications for the GOA inadvertently omitted changes made by previous rulemaking. Therefore, NMFS is correcting the published final 2000 total allowable catch amounts (TACs) specified for pollock in the Western and Central Regulatory Areas of the Gulf of Alaska (W/C GOA).

DATES: Effective February 15, 2000, through 2400 hrs A.l.t. December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Sue Salveson, 907–586–7228.

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

On January 3, 2000, NMFS published interim 2000 pollock TACs (65 FR 65).

For pollock, the interim TAC consists of the entire A season allocation. These interim pollock TACs were not further apportioned by time and area. On January 25, 2000, NMFS published an emergency rule implementing Steller sea lion protection measures (65 FR 3892). The emergency rule amended the original interim TACs for pollock in the W/C GOA by revising the TAC levels to account for the best available scientific information and apportioned the TACs by area for the A season.

On January 27, 2000, NMFS issued an inseason adjustment amending the time and area apportionments of the W/C GOA interim pollock TACs (65 FR 4892, February 2, 2000). The amended interim TAC apportionments reflected a revised procedure for more accurately allocating pollock as authorized under the emergency rule.

NMFS published the final 2000 harvest specifications for the GOA groundfish fishery on February 18, 2000 (65 FR 8298). Inadvertently, the changes to the A season TACs and apportionments made by the emergency rule and the inseason adjustment to the emergency rule for the W/C GOA pollock TACs were omitted from the final 2000 harvest specifications for the GOA groundfish fishery.

Correction

In the rule to implement the Final 2000 Harvest Specifications for Groundfish of the Gulf of Alaska, published on February 18, 2000 (65 FR 8298), FR Doc. 00–3910, the following corrections are made to the TAC amounts specified for pollock in the W/C GOA.

1. On page 8301, in Table 1, the entire entry ''Pollock'' and footnote 2 are correctly revised to read as follows:

TABLE 1. 2000 ABCS, TACS, INITIAL TACS (PACIFIC COD ONLY) AND OVERFISHING LEVELS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), SHELIKOF STRAIT, EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA.

[Values are in metric tons]

Species	Area[1]	ABC	TAC	Initial TAC Overfishing
Pollock[2]				
Shumagin	(610)	32,340	32,340	
Chirikof	(620)	13,372	13,372	
Kodiak	(630)	24,501	24,501	
Shelikof	.....	20,987	20,987	
WYK	(640)	2,340	2,340	
Subtotal	W/C/WYK	93,540	93,540	130,760
SEO	(650)	6,460	6,460	8,610
Total		100,000	100,000	139,370
* * * *	*	*		*

[2] Under the emergency interim rule (65 FR 3892, January 25, 2000) pollock is apportioned in the Western/Central Regulatory areas to the Shelikof Strait conservation area (defined at § 679.22(b)(3)(iii)(B)) in the A and B seasons only. In accordance with § 679.22(b)(3)(iii)(C) the pollock TAC in the Shelikof Strait is determined by calculating a ratio equal to the most recent estimate of pollock biomass in the Shelikof Strait divided by the total pollock biomass in the GOA. This ratio is multiplied by the amount of the combined Western and Central GOA TAC available in the A and B seasons. The remainder of the combined Western and Central GOA TAC in the A and B seasons is then apportioned to areas 610, 620, 630 outside the Shelikof Strait based on the distribution of pollock outside the Shelikof Strait, which is 56 percent, 4 percent, and 40 percent respectively. During the C and D seasons pollock is apportioned based on the relative distribution of pollock biomass at 42 percent, 25 percent, and 33 percent in Regulatory Areas 610, 620, and 630 respectively. These seasonal apportionments are shown in Tables 3 and 4. In the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

* * * * *

2. On page 8304, Table 3 is correctly revised to read as follows:

TABLE 3. DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA (W/C GOA); BIOMASS DISTRIBUTION, AREA APPORTIONMENTS, AND SEASONAL ALLOWANCES OF ANNUAL TAC FOR THE A AND B SEASONS IN 2000.

Statistical area	Biomass percent	2000 Annual TAC	Seasonal Allowances of Annual TAC	
			A	B
			(30%)	(15%)
Shelikof	51.1	20,987	13,991	6,996
Shumagin 610)	27.4	32,340	7,498	3,749
Chirik of[1](620)	2.0	13,372	546	273
Kodiak[1] (630)	19.5	24,501	5,325	2,662
TOTAL	100.0	91,200	27,360	13,680

[1] A and B seasonal allowances in the Chirikof and Kodiak Districts are outside the Shelikof Strait defined at § 679.20(b)(2)(iii)(B).

Classification

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

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

Dated: February 25, 2000.

Andrew A. Rosenberg,

Deputy Asst. Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–5225 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 45
Tuesday, March 7, 2000

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 99–038–1]

Tuberculosis in Cattle, Bison, Goats, and Captive Cervids; State and Zone Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the bovine tuberculosis requirements to establish several new levels of tuberculosis risk classifications to be applied to States and zones within States. Additionally, we are proposing to classify States and zones according to their tuberculosis risk with regard to captive cervids. We are also proposing to amend the regulations to specify that the regulations apply to goats as well as to cattle, bison, and captive cervids and to increase the amount of testing that must be done before certain cattle, bison, and goats may be moved interstate. We believe these changes are necessary to help prevent the spread of tuberculosis and to further the progress of the domestic tuberculosis eradication program.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by April 21, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–038–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–038–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Van Tiem, Senior Staff Veterinarian, VS, APHIS, USDA, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7716.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is a contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. It affects cattle, bison, deer, elk, goats, and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts, causes weight loss and general debilitation, and can be fatal.

At the beginning of this century, bovine tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine tuberculosis in livestock.

Federal regulations implementing this program are contained in 9 CFR part 77, ''Tuberculosis'' (referred to below as the regulations), and in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' (UMR), January 22, 1999, edition, which is incorporated into the regulations by reference. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of bovine tuberculosis.

Tuberculosis Risk Level Status

Until the Animal and Plant Health Inspection Service (APHIS) made a recent regulatory change to allow zones within a State to be assigned different risk classifications (discussed in the following paragraph), restrictions on the interstate movement of cattle and bison not known to be affected with or exposed to tuberculosis were based on whether the entire State was classified as either accredited-free, accredited-free (suspended), modified accredited, or nonmodified accredited. In determining the tuberculosis status of a State, APHIS based its classification on the State's freedom from evidence of tuberculosis, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with the standards contained in the UMR.

In an interim rule published in the **Federal Register** on November 1, 1999 (64 FR 58769–58780, Docket No. 99–008–1), we amended the regulations to allow a State to be divided into two zones for the purpose of assigning risk classifications with regard to tuberculosis in cattle and bison. As a result of this change, the conditions required by the regulations for the interstate movement of cattle and bison might be different for cattle and bison from the same State, depending on the tuberculosis classification of the zone each animal is moved from.

State and Zone Status System for Captive Cervids

In our interim rule, we applied the provisions for allowing for risk zones within a State only to cattle and bison and not to captive cervids. This is because the regulations did not and still do not provide for State classifications for tuberculosis based on the tuberculosis status of captive cervids; nor is the tuberculosis status of captive cervids taken into account when determining the risk classification with regard to cattle and bison. The regulations in 9 CFR part 77 are divided into subpart A for cattle and bison and subpart B for captive cervids and are applied independently of each other.

While the requirements in subpart A for the interstate movement of cattle and bison are based largely on the risk classification of the State or zone the animals move from, the requirements in subpart B for the interstate movement of captive cervids are based on the tuberculosis status of individual herds of cervids, not on the State status. Because there was no State classification system with regard to captive cervids at the time our interim rule was published, there was no reason to allow for zones with separate risk classifications for captive cervids within a State.

In this document, however, we are proposing to make a system of State and zone risk classifications applicable to captive cervids. We have several reasons for making such a proposal. First, although the current system of basing movement requirements for captive cervids on the status of individual herds has been effective in preventing tuberculosis transmission, it is a system that relies on making each herd owner responsible for having the necessary testing done for that herd. We believe that at least the same level of biosecurity can be attained, at reduced cost to individual owners, by linking interstate movement requirements to a State or zone classification that would be dependent on surveillance conducted by the State.

Second, by allowing for a system of State or zone classifications with regard to captive cervids, we would likely accelerate the eradication of tuberculosis among captive cervids. The current system of basing interstate movement requirements on individual captive cervid herd status is effective in preventing the interstate spread of tuberculosis. However, it does not contain an incentive for owners to have their herds tested if they do not intend to move those cervids interstate. As with the current State or zone classification system for cattle and bison, a State or zone classification system for captive cervids would encourage States to aggressively conduct surveillance among all captive cervid herds in that State, whether or not any particular herd is intended for interstate movement.

We are not, however, proposing to eliminate the option of basing the eligibility of captive cervids to move interstate on individual herd status. For example, an accredited herd may be located in a State or zone that is classified as modified accredited because of the presence of several affected herds in herd in the State or zone. If the accredited herd has undergone adequate surveillance under the current regulations to ensure that individual animals moved from that herd present a negligible risk of being infected with tuberculosis, we do not believe it is necessary to subject animals from that herd to movement restrictions that would otherwise apply to the entire State or zone. Many owners have invested significant resources in conducting the monitoring and surveillance required to achieve a particular herd status. We believe it is warranted and appropriate to allow such owners to continue to move their cervids under the current regulations governing such movement if those movement requirements would be less restrictive than the proposed requirements based on the risk classification of the State or zone in which the herd is located.

Conversely, we believe it would be appropriate to allow captive cervids to move interstate under the proposed requirements based on the risk classification of the State or zone in which the animals are located if such conditions would be less restrictive than those in the current regulations based on individual herd status. For all State or zone risk classifications under this proposed rule except for nonaccredited, the required compliance with the UMR means that a sufficient number of herds of captive cervids in the State or zone must be tested to ensure that tuberculosis infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. If the State or zone achieves that level of certainty in the State or zone overall, we believe that an individual herd in the State or zone that is not known to be affected with tuberculosis can be moved under the interstate movement requirements established for that entire State or zone with negligible risk of spreading tuberculosis.

(It should be noted that, under the provisions of the UMR, a herd that is known to be affected with tuberculosis that is located in a State or zone that otherwise presents a low tuberculosis risk is subject to quarantine and would not be eligible for interstate movement, regardless of the State or zone's risk classification.)

Therefore, we are proposing to add language to the current captive cervid regulations to indicate that captive cervids may move interstate under the proposed movement requirements applicable to an entire State or zone if those requirements are less restrictive than those for movement based on individual herd status. This language would be added at §§ 77.32(a), 77.35(b), 77.36(b), and 77.37(b) of this proposed rule, which include the provisions set forth in §§ 77.9(a), 77.12(b), 77.13(b), and 77.14(b), respectively, of the current regulations.

Change in Risk Classifications

We are also proposing in this document to revamp and expand the categories of tuberculosis risk classifications that apply to cattle and bison (discussed below) and to use this new classification system when determining the risk classifications of States or zones with regard to captive cervids. However, although we would use the same type of tuberculosis risk classification system for both captive cervids and cattle and bison, the specific risk classification we would apply to a State or zone with regard to cattle and bison would not necessarily be the same as that assigned to the State or zone with regard to captive cervids. Although our goal by the year 2010 is to have each State or zone have one tuberculosis classification that applies to all regulated animals in the State or zone, at this time we are keeping State and zone classifications for cattle and bison independent of the classifications for captive cervids. Our rationale for keeping these classifications separate is explained below under the heading ''Captive Cervids.''

Goats

Additionally, we are proposing to make the tuberculosis provisions that apply to cattle and bison also apply to goats. The current regulations, except for limited usage as part of the term ''livestock,'' do not refer to goats, although the UMR does. The production of goats, however, is a rapidly growing industry, particularly with regard to dairy goats, and it has been demonstrated by incidences of tuberculosis among goats held for exhibition that goats can harbor and transmit the disease. In order to protect the goat industry in this country, and to protect other susceptible livestock from goats that might become infected with tuberculosis, we are including goats in this proposed rule in provisions that refer to cattle and bison, as appropriate. It should be noted that, although no cases of tuberculosis have been found to date in goats used as livestock in the United States, regulating the movement of goats is consistent with the regulations of the U.S. Food and Drug Administration (FDA) regarding the potential transmission of tuberculosis to humans through goat's milk. (See, for example, 21 CFR 1210.13, which requires tuberculin testing of animals whose raw milk is intended for importation into the United States, and also the FDA Pasteurized Milk Ordinance, Section 7(C), which provides that goat milk for pasteurization must be from a herd that has passed an annual tuberculin herd test.)

Each of the proposed changes noted above, and our reasons for proposing them, are discussed at greater length below.

Scope of this Proposed Rule

In addition to the proposed substantive additions and revisions to the current regulations that we discuss in this supplementary information, we

are proposing to make nonsubstantive changes to the current regulations to make them easier to read. The primary nonsubstantive change we are proposing is the reformatting of the regulations, discussed below under the heading ''Reformatting of Part 77.''

In order to make it easier to follow our proposed reformatting changes, we set out all of part 77 in this proposal, including those provisions of the current regulations to which we are proposing no amendments, except to change section designations. Because we are proposing no changes to large parts of the current regulations, we are not soliciting public comment on those unchanged provisions. In certain other sections, we are proposing very limited changes, and are soliciting public comment only on the limited portion of the section that would be amended.

The regulatory sections addressing captive cervids that are set out in this proposed rule only for readability with no substantive changes, or with very limited changes, are §§ 77.9 through 77.18 of the current regulations (designated as proposed §§ 77.32 through 77.41). The several places we are proposing limited changes to those sections are identified and discussed in this supplementary information, below. With regard to cattle and bison, we are proposing no substantive changes to §§ 77.5 through 77.7 of the current regulations (designated as proposed §§ 77.17 through 77.19) except to apply those provisions to goats as well as to cattle and bison where applicable.

Reformatting of Part 77

As noted above, under this proposed rule, the provisions for tuberculosis risk classification and for recognition of zones within a State would be expanded to apply to captive cervids and goats as well as to cattle and bison. Because the status classifications for captive cervids may not coincide with those for cattle, bison, and goats, we would continue to set forth most of the provisions relevant to captive cervids in a separate subpart from those relevant to cattle, bison, and goats.

In contrast, the provisions for applying for recognition of risk zones within a State will apply in the same way to captive cervids as to cattle, bison, and goats. Whatever zones are recognized will be used for captive cervids, as well as for cattle, bison, and goats, although the status of a zone may be different for captive cervids than it is for cattle, bison, and goats.

Therefore, to avoid redundancy in the regulations, we are proposing to include all provisions regarding application for recognition of zones in one subpart, rather than duplicate the information in the subparts specific to cattle, bison, and goats and specific to captive cervids. In addition, we are proposing to include in that ''general'' subpart the definitions that apply to all of the regulations in part 77. This ''general'' subpart would be subpart A. The regulations specific to cattle, bison, and goats would be set forth in subpart B, and the regulations specific to captive cervids would be set forth in subpart C. All of the current sections in part 77 would be renumbered to accommodate this reformatting.

In subpart A of this proposed rule, we are including one substantive change from the current provisions regarding application for recognition of zones. Currently, a State may have no more than two zones. In our November 1, 1999, interim rule, we explained that we were limiting the number of zones in a State to two because of the amount of monitoring and movement controls necessary for the State to adequately administer different status zones. We now believe that it is not necessary to limit a State to two zones, if the State can adequately demonstrate that each of its proposed zones meets the criteria in the current regulations for recognition of a zone.

Under these criteria, a zone must be a defined geographic land area indentifiable by geological, political, manmade, or surveyed boundaries, with mechanisms of disease spread, epidemiological characteristics, and the ability to control the movement of animals across the boundaries of the zone taken into account. Additionally, the State in question must have sufficient resources to implement and enforce a tuberculosis eradication program, and means of ensuring that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife. Further, the State must maintain, in each intended zone, surveillance that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence.

We believe that if a State can meet each of the above requirements for each of the proposed zones, it is not necessary to limit the State's request to two zones. Therefore, we are not including in this proposed rule a provision limiting a State to no more than two zones.

Current Risk Classification System

The possible risk classifications of States and zones with regard to cattle and bison under the current regulations are *accredited-free, accredited-free (suspended), modified accredited, and nonmodified accredited.* Some of the current provisions governing each classification appear in the definitions in § 77.1, while the remainder of the provisions for each classification appear in other sections of part 77. We discuss below the provisions governing each of the current classifications.

Accredited-Free State or Zone

Criteria for being classified as an accredited-free State or zone. An accredited-free State or zone is defined as a State or zone that complies with the UMR, has zero percent prevalence of affected cattle and bison herds, and has had no findings of tuberculosis in any cattle or bison in the State or zone for the previous 5 years, except that the requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited-free and in which all herds affected with tuberculosis were depopulated. Compliance with the UMR includes meeting the requirement that the State demonstrates annually that an adequate amount of testing and slaughter surveillance is done in that State to discover any bovine tuberculosis that might be present.

If tuberculosis is detected in any one herd of cattle or bison in an accredited-free State or zone, the accredited-free status of the State or zone is suspended. In such a case, the State or zone may qualify for redesignation of accredited-free status after the herd in which the tuberculosis is detected has been quarantined, an epidemiological investigation has confirmed that the disease has not spread from the herd, and all reactor cattle and bison have been destroyed.

If any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must test those other livestock in the same way as cattle and bison when conducting a herd test according to the UMR, or else be reclassified as either a modified accredited State or zone or a nonmodified accredited State or zone.

If two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone will also be reclassified.

If tuberculosis is diagnosed in an accredited-free State or zone in an animal not specifically covered by the regulations and a risk assessment conducted by APHIS determines the outbreak poses a tuberculosis risk to livestock in the State or zone, the State or zone must adopt, within 6 months of

diagnosis, a tuberculosis management plan, approved jointly by the State animal health official and the APHIS Administrator, or else be reclassified.

Accredited-free State or zone status must be renewed annually.

Interstate movement from an accredited-free State or zone. Cattle and bison that originate in an accredited-free State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate without restriction.

Accredited-Free (Suspended) State or Zone

Criterion for being classified as an accredited-free (suspended) State or zone. An accredited-free (suspended) State or zone is defined as an accredited-free State or zone in which tuberculosis has been detected in cattle or bison.

Interstate movement from an accredited-free (suspended) State or zone. Cattle and bison that originate in an accredited-free (suspended) State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate without restriction.

Modified Accredited State or Zone

Criteria for being classified as a modified accredited State or zone. A modified accredited State or zone is defined as a State or zone that complies with the UMR and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for the most recent 2 years. However, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone, the Administrator may, upon review, allow modified accredited status in a State or zone that has fewer than 30,000 herds and that has had up to 3 affected herds for each of the most recent 2 years.

The same requirements apply to modified accredited States or zones as those discussed above for accredited-free States or zones regarding the testing of livestock other than cattle or bison included in a newly assembled herd on a premises where a tuberculous herd has been depopulated.

Likewise, the same requirements apply to modified accredited States or zones as those discussed above for accredited-free States or zones regarding the need to adopt a tuberculosis management plan if tuberculosis is diagnosed in the State or zone in an animal not specifically covered by the regulations and a risk assessment conducted by APHIS determines the outbreak poses a tuberculosis risk to livestock in the State or zone.

Modified accredited State or zone status must be renewed annually.

Interstate movement from a modified accredited State or zone. Cattle and bison that originate in a modified accredited State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate without restriction.

Nonmodified Accredited State or Zone

Criterion for being classified as a nonmodified accredited State or zone. A nonmodified accredited State is defined as a State or zone that has not received accredited-free status or modified accredited status.

Conditions for interstate movement from a nonmodified accredited State or zone. Cattle and bison that originate in a nonmodified accredited State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate only if they meet one of the following conditions:

1. The cattle or bison are moved directly to slaughter to an establishment operating under the provisions of the Federal Meat Inspection Act or to a State-inspected slaughtering establishment that has State inspection at the time of slaughter.

2. The cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers that are moved to an approved feedlot, and are accompanied by a certificate stating that they have tested negative to an official tuberculin test conducted within 30 days prior to the date of movement. If the cattle or bison moved under this condition are not individually identified by a registration name and number, they must be individually identified by an APHIS-approved metal eartag or tattoo.

3. The cattle or bison are breeding animals from an accredited herd and are accompanied by a certificate showing they are from such a herd.

4. The cattle or bison are breeding animals that are not from an accredited herd but that are accompanied by a certificate stating that they have tested negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 30 days prior to the date of movement. If the cattle or bison moved under this condition are not individually identified by a registration name and number, they must be officially identified.

Reasons for Proposing a Revised Classification System

Although it has undergone some refinement through the years, including the clarifications we made in our November 1, 1999, interim rule, a tuberculosis risk classification system that includes accredited free, modified accredited, and nonmodified accredited classifications has been in effect since the 1940's. It has been an integral part of the tuberculosis eradication program that has virtually eliminated the disease in U.S. livestock. Currently, all but three States are classified as accredited free in their entirety for cattle and bison, which means they contain no herds affected with tuberculosis. Two States (New Mexico and Texas) are nearing accredited-free status, and one State (Michigan) is accredited free except for a single zone in the State. Today, the national percentage of herds of cattle and bison affected with tuberculosis stands at approximately 0.0002 percent.

Although the current system of risk level classifications has been effective in helping reduce the incidence of tuberculosis in the United States to a very low level, it has not yet eliminated the disease in this country. The danger still exists that tuberculosis could spread among livestock, and we do not believe the current regulations best recognize the different levels of risk that can exist with regard to tuberculosis.

As discussed above, one of the criteria for being classified as a modified accredited State or zone is that, with certain exceptions, the State or zone is one in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for the most recent 2 years. The current regulations do not specifically address levels of prevalence greater than or equal to 0.01 percent of the herds in the State or zone, other than to provide that all States or zones that do not qualify for accredited-free or modified accredited will be classified as nonmodified accredited.

Although we consider the current interstate requirements for animals from nonmodified accredited States or zones to adequately address States or zones that have prevalence levels of tuberculosis close to 0.01 percent, we believe those interstate requirements are not adequate to address any States or zones that develop prevalence levels well in excess of 0.01 percent. In this proposal, we are proposing to address such higher prevalence levels by expanding the possible levels of risk classification, as discussed below.

Additionally, we believe two other factors make it necessary to change the current classification system. The first involves the captive cervid industry; the second involves international trade.

Captive Cervids

Although we believe it is necessary to begin classifying States or zones according to their tuberculosis risk with regard to captive cervids, as noted above we are proposing to keep classifications with regard to cattle, bison, and goats independent of classifications for captive cervids. We are proposing to keep these classifications separate because, in general, programs for surveillance for tuberculosis in captive cervids are not as advanced as those for cattle and bison. Although all but three States are considered accredited free with regard to cattle and bison, based on the information available to us, we believe only 24 States would qualify for accredited-free status in their entirety for captive cervids. However, we do not consider it appropriate to downgrade the status of a State or zone with regard to cattle and bison because that State or zone has a higher risk status for captive cervids. Captive cervids usually represent only a minor percentage of the livestock industry in most States, and those captive cervids that are held or transported in a State are generally raised and marketed in channels separate from cattle, bison, and goats, so there is less risk that a captive cervid that is infected with tuberculosis will transmit the disease to cattle, bison, or goats.

Tuberculosis and International Trade

Another reason we believe it is necessary to refine and expand the tuberculosis risk classification system involves growing international trade. Although the majority of States are grouped at the accredited-free level and would not be affected by the changes in the risk classification system set forth in this proposal, there is a broad spectrum of risk levels among other countries. With growing international trade, we find it increasingly necessary to be able to explain to our trading partners in a transparent fashion why we consider them to be at a particular risk level for tuberculosis and why we believe particular mitigation measures are necessary to allow their animals to be imported into the United States. The risk classification system we are proposing in this document represents the same criteria we would use to assess the risk in another country and the measures necessary to mitigate any risk to a negligible level. We are in the process of developing rulemaking that will specifically address tuberculosis risk levels in foreign countries and other foreign regions.

Proposed New Tuberculosis Risk Classification System

In the following paragraphs we explain how the new classification system would work. We are proposing to provide for five risk classifications, as follows:

1. Accredited Free.
2. Modified Accredited Advanced.
3. Modified Accredited.
4. Accreditation Preparatory.
5. Nonaccredited.

It is important to keep in mind that when we refer in our discussion below to ''specifically regulated animals,'' we are talking exclusively about cattle, bison, and goats for subpart A and exclusively about captive cervids for subpart B. For instance, although cattle, bison, goats, and captive cervids would all be ''specifically regulated'' in some way under part 77, in subpart B the prevalence level of affected herds of captive cervids alone would be considered in determining the classification of States or zones and would not influence the classification of the State or zone for cattle, bison, and goats in subpart A.

Accredited-Free States or Zones

We are proposing to retain the provisions in the current regulations governing accredited-free status, described above under the heading ''Accredited-Free State or Zone,'' with two additions and one revision.

The additions involve the waiting period without findings of tuberculosis that a State or zone must meet before achieving accredited-free status. To achieve accredited-free status under the current regulations, a State or zone must have had no findings of tuberculosis for the previous 5 years, except that the requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis have been depopulated.

In the definition of *accredited-free State or zone* in both § 77.5 for cattle, bison, and goats and § 77.20 for captive cervids, we are proposing to add two additional ways to achieve accredited-free status. First, the waiting period would be 3 years in States or zones that were not previously accredited free but that have depopulated all affected herds. We believe this shortened waiting period is appropriate in States or zones where such depopulation has been carried out because depopulation is an effective method of ensuring that infected animals are removed from a State or zone.

Alternatively, the waiting period would be 3 years in States or zones that have conducted surveillance that demonstrates that wildlife and livestock herds other than the animals specifically regulated under the subpart in question (cattle, bison, and goats in subpart A; captive cervids in subpart B) are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS. We believe that including such an option in the regulations provides States and zones with an incentive to conduct increased surveillance for tuberculosis in all susceptible animals in the area of an affected herd and thus to accelerate eradication of the disease in that State or zone.

We believe it is necessary to allow the Administrator the discretion to assess the adequacy of the surveillance because there are a number of valid methods of surveying for tuberculosis, and we expect that each State will implement a surveillance program suitable to the livestock and wildlife of that State. Among the different methods of surveillance a State might implement are testing of animals at slaughter, testing for tuberculosis of any animals tested for another reason, target area testing, or epidemiological sampling of herds in a particular area.

The provision we are proposing to revise involves how we will address States or zones in which an affected herd is detected. Under § 77.3(c) of the current regulations, such a State or zone is reclassified as accredited free (suspended). However, the current regulations do not specify how long the suspension of accredited-free status can last before the State or zone is downgraded in status, nor do they specify what the State or zone must do to regain accredited-free status. To address these two areas, § 77.7(c) of this proposed rule provides for cattle, bison, and goats that if an affected herd is detected in a State or zone classified as accredited free, and the herd is depopulated and an epidemiologic investigation is completed within 90 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. Proposed § 77.22 includes a similar provision for States and zones classified accredited free for captive cervids, with the one difference that, in such States and zones, the depopulation and epidemiologic investigation must be completed within 120 days of the detection of the affected herd.

Based on our experience enforcing the regulations, we believe that for cattle,

bison, and goats, 90 days is enough time to investigate the incidence of tuberculosis and trace the movement of animals from an affected herd. Ninety days will allow time for herd owners who have tested their livestock once with negative results to wait at least an additional 60 days before retesting to ensure valid results from the retesting. However, we believe it is warranted to allow 120 days for completion of depopulation and investigation for captive cervids, due to the longer waiting period necessary between tests of cervids than those of cattle, bison, and goats. In animals that have been tested for tuberculosis, the immune system is depressed following the test and will not respond definitively to a second test unless some time is allowed for the animal's immune system to ''reset'' following the first test. In cattle, bison, and goats, a valid second test can be done 60 days following the first test. For captive cervids, it is necessary to wait 90 days following the first test.

To clarify our intent with regard to what constitutes an epidemiologic investigation, we are including a definition of that term in proposed § 77.2. We would define an epidemiologic investigation as one that is conducted by the State in conjunction with APHIS representatives, in which an official test for tuberculosis is conducted on all livestock in any tuberculosis-affected herd in a State or zone, as well as on all livestock in any herd into which livestock from the affected herd have been moved.

As in the current regulations for cattle and bison, we would allow specifically regulated animals that are not known to be infected with or exposed to tuberculosis to be moved interstate without restriction from accredited-free States or zones.

Modified Accredited Advanced States or Zones

Prior to our November 1, 1999, interim rule, a modified accredited State was defined as one that complied with all of the provisions of the UMR regarding modified accredited States. Because it was not always clear what standards a State needed to meet to achieve modified accredited status, in our interim rule we clarified our intent with regard to the standards that needed to be met. These standards are described above under the heading ''Modified Accredited State or Zone.''

Because tuberculosis has been virtually eradicated in cattle and bison in this country, and because two of the three States not classified as accredited free in their entirety are classified as modified accredited, the standards currently set forth in subpart A of the regulations for modified accredited States are relatively stringent. We consider those standards necessary to ensure that all States maintain an aggressive program to become or stay accredited free with regard to cattle, bison, and goats.

However, because tuberculosis surveillance programs for captive cervids have not yet progressed as far as those for cattle, bison, and goats, and because not all foreign regions are as close to the eradication of tuberculosis as the United States, we believe it is necessary to provide for risk classifications that accommodate a greater disease risk than the modified accredited status of the current regulations, but at the same time give more recognition for progress toward eradication than the current nonmodified accredited classification. We believe that providing for such classifications will further the eradication of tuberculosis in this country and establish standards that we can apply in equivalent fashion to foreign regions in future rulemaking. The classifications we are proposing to add are titled modified accredited (with different standards than the modified accredited classification under the current regulations) and accreditation preparatory. Both of these classifications are discussed below under their respective headings.

With the addition of these two classifications, we believe it is necessary to make clear that the classification currently known as modified accredited describes a State or zone that is close to the eradication of tuberculosis in the animals in question. Therefore, we are proposing to rename the current modified accredited classification as modified accredited advanced. The requirements for achieving and maintaining modified accredited advanced status would be the same as those in the current regulations for achieving and maintaining modified accredited status (described above under the heading ''Modified Accredited State or Zone'').

The requirements for the interstate movement of animals from a modified accredited advanced State or zone (proposed § 77.10 for cattle, bison, and goats; proposed § 77.25 for captive cervids) would differ from the current provisions for movement from a modified accredited State or zone in one significant respect. Under the current regulations, cattle and bison that originate in a modified accredited State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate without restriction. However, because any State or zone other than an accredited-free State or zone includes at least one herd affected with tuberculosis, we consider it necessary to test animals moved from States or zones that are other than accredited free, unless certain other conditions exist that mitigate the tuberculosis risk to a negligible level. Therefore, in this document, we are proposing that specifically regulated animals may not be moved interstate from a modified accredited advanced State or zone without testing negative for tuberculosis unless they meet one of the following conditions:

1. The animals are accompanied by a certificate stating that they originated in an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

2. The animals are moved directly for slaughter to an approved slaughtering establishment. (Currently, subpart A with regard to cattle and bison refers to movement to a slaughtering ''establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State-inspected slaughtering establishment that has inspection by a State inspector at the time of slaughter.'' Such an establishment is defined in current subpart B as an *approved slaughtering establishment.* In this proposed rule, wherever we refer in the regulations to such an establishment, we use the term ''approved slaughtering establishment'').

3. The animals are cattle or bison that are steers or spayed heifers, or are officially identified sexually intact heifers that are moved to an approved feedlot. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

If the animals meet none of the above conditions, they may not be moved interstate unless they are accompanied by a certificate stating that they have been classified negative to an official tuberculin test that was conducted within 60 days prior to the date of movement for cattle, bison, and goats, and within 90 days prior to the date of movement for captive cervids.

The proposed requirement that the testing required for cattle and bison be done within 60 days prior to the date of movement differs from testing requirements in the current regulations (for nonmodified accredited States and zones), which require that the testing be done within 30 days prior to the date of movement. We are proposing to allow testing to be done within 60 days prior to movement in order to minimize

disruption to standard livestock marketing practices. Under the current regulations, for example, cattle and bison tested 31 days prior to an intended date of movement could not be moved interstate. Because, as discussed above, an interval of at least 60 days is necessary between tuberculin tests for cattle, bison, and goats, under the current regulations cattle or bison tested 31 days prior to the intended date of movement would have to wait 29 days beyond the intended date of movement before being retested. We believe that this delay in movement, which can significantly impact the ability of owners to market their animals, is not warranted from an animal health perspective, because we believe the risk is negligible that an infected animal will not be detected because a test was done 60 days prior to movement rather than 30 days.

With regard to captive cervids, allowing a required test to be conducted within 90 days prior to movement would be consistent with the current provisions regarding the testing required for interstate movement from individual herds. Ninety days would be allowed for the testing of captive cervids for the same reason that 60 days would be allowed for cattle, bison, and goats—*i.e.*, to minimize disruption of standard livestock practices. We would allow the additional time for captive cervids, compared to cattle, bison, and goats, because of the longer waiting period that is necessary between tuberculosis tests of captive cervids.

We believe it is necessary to establish the above requirements for animals moved from modified accredited advanced States or zones to provide assurance that the tuberculosis risk from animals moving from a modified accredited advanced State or zone is no more than that from animals already in an accredited-free State or zone.

Modified Accredited States or Zones

The new tuberculosis risk classification titled modified accredited would apply to States and zones whose animals represent a greater disease risk than those from States and zones classified as modified accredited advanced.

In proposed § 77.5 for cattle, bison, and goats and proposed § 77.20 for captive cervids, a modified accredited State or zone would be defined as a State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the UMR and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of specifically regulated animals in the State or zone for the most recent year. However, the regulations would also provide that the Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds of the animals in question to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

The provision that would allow the Administrator to give the proposed modified accredited classification to a State or zone with fewer than 10,000 herds that has up to 10 affected herds is similar to a provision in the current regulations for modified accredited States, retained in this proposed rule under the standards for achieving and maintaining modified accredited advanced status. Under the current regulations, the prevalence level of tuberculosis for modified accredited status must be less than 0.01 percent of the total number of herds, except that in States or zones with fewer than 30,000 herds, the Administrator may, upon his or her review, allow the State or zone to have up to 3 affected herds.

Although we consider a disease prevalence of less than 0.1 percent of the herds to be appropriate for the proposed modified accredited classification in most cases, we recognize that there are situations where the circumstances in a State or zone might warrant some deviation from that standard. For instance, the requirement for less than 0.1 percent prevalence means that, for every 10,000 herds in the State or zone, fewer than 10 herds may be affected. In a State or zone with fewer than 10,000 herds, the presence of fewer than 10 affected herds could cause the prevalence rate to exceed the allowable maximum. We do not necessarily consider this number of affected herds to represent a disease risk significant enough to disqualify a State or zone from the proposed modified accredited classification.

The factors the Administrator will consider in determining whether a prevalence level of 0.1 percent or more is acceptable include: (1) How effectively the veterinary infrastructure in the State or zone could detect and respond to the presence of an affected herd and (2) the risk of transmission of the disease from an affected herd to other herds, based on factors such as the density of the livestock population and the patterns of herd distribution.

As with accredited-free and modified accredited advanced States and zones, we are proposing to require for modified accredited States and zones (proposed § 77.11 for cattle, bison, and goats; proposed § 77.26 for captive cervids) that if any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must test those other livestock in the same way as cattle and bison when conducting a herd test according to the UMR, or else have its classification downgraded, in this case to accreditation preparatory.

Additionally, as with accredited-free and modified accredited advanced States and zones, we are proposing to require that if tuberculosis is diagnosed in a modified accredited State or zone in an animal not specifically covered by the regulations, and a risk assessment conducted by APHIS determines the outbreak poses a tuberculosis risk to livestock in the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the APHIS Administrator, within 6 months of the diagnosis, or have its classification downgraded, in this case to accreditation preparatory. It should be noted that our use of the word ''implement'' differs from the wording of the current regulations, which use the word ''adopt.'' We would use the word ''implement'' to make clear that a tuberculosis management plan must actually be in operation to meet the requirements of the regulations.

Modified accredited State or zone status would have to be renewed annually.

Interstate movement from proposed modified accredited States or zones: In this document, we are proposing (proposed § 77.12 for cattle, bison, and goats; proposed § 77.27 for captive cervids) that specifically regulated animals may not move interstate from a modified accredited State or zone without having to be tested for tuberculosis, unless they meet one of the following conditions:

1. The animals are accompanied by a certificate stating that they originated in an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

2. The animals are moved directly to slaughter to an approved slaughtering establishment.

If the animals meet neither of the above conditions, they may not be moved interstate unless they meet one of the following conditions:

1. The animals are cattle or bison that are steers or spayed heifers, or are officially identified sexually intact heifers that are moved to an approved feedlot, and are accompanied by a certificate stating that they have been

classified negative to an official tuberculin test conducted within 60 days prior to movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

2. If the animals are cattle, bison, or goats, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. If the animals are captive cervids, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement. All animals that are so moved that are not individually identified by a registration name and number must be officially identified.

The proposed interstate movement requirements from modified accredited States and zones differ from those for modified accredited advanced States and zones in two ways. First, steers, spayed heifers, and officially identified sexually intact heifers moved to an approved feedlot from a modified accredited State or zone would have to test negative to one official tuberculin test (proposed § 77.12(b)). This requirement would not exist for movement from modified accredited advanced States and zones. Second, breeding animals not from an accredited herd would have to test negative to two official tuberculin tests (proposed § 77.12(d) for cattle, bison, and goats; proposed § 77.27(c) for captive cervids), rather than just one test as for movement from modified accredited advanced States and zones. We believe these additional safeguards are necessary for animals moved from modified accredited States or zones to provide assurance that the tuberculosis risk from animals moving from a modified accredited State or zone is no more than that from animals already in an accredited-free State or zone or a modified accredited advanced State or zone.

Accreditation Preparatory States and Zones

The tuberculosis risk classification titled accreditation preparatory would apply to States and zones that represent a greater disease risk than those classified as modified accredited.

In proposed § 77.5 for cattle, bison, and goats and proposed § 77.20 for captive cervids, an accreditation preparatory State or zone would be defined as a State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the UMR and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of specifically regulated animals in the State or zone.

As with the classifications discussed above, we are proposing to require for accreditation preparatory States and zones that if any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must test those other livestock in the same way as cattle, bison, and goats when conducting a herd test according to the UMR, or else have its classification downgraded, in this case to nonaccredited (proposed § 77.13 for cattle, bison, and goats; proposed § 77.28 for captive cervids).

Additionally, as with the classifications discussed above, we are proposing to require that if tuberculosis is diagnosed in an accreditation preparatory State or zone in an animal not specifically covered by the regulations, and a risk assessment conducted by APHIS determines the outbreak poses a tuberculosis risk to livestock in the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the APHIS Administrator, within 6 months of the diagnosis, or else have its classification downgraded, in this case to nonaccredited.

Accreditation preparatory State or zone status would have to be renewed annually.

Interstate movement from accreditation preparatory States or zones: In this document, we are proposing (proposed § 77.14 for cattle, bison, and goats; proposed § 77.29 for captive cervids) that specifically regulated animals may not be moved interstate from an accreditation preparatory State or zone unless they meet one of the following conditions:

1. The animals are accompanied by a certificate stating that they originated in an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that the animals to be moved have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement for cattle, bison, and goats, and within 90 days prior to the date of movement for captive cervids. All animals that are so moved that are not individually identified by a registration name and number must be officially identified.

2. The animals are moved directly to slaughter to an approved slaughtering establishment.

3. The animals are cattle or bison that are steers or spayed heifers, or are officially identified sexually intact heifers that are moved to an approved feedlot, and are accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

4. The animals are accompanied by a certificate stating that they originated in a herd that has undergone a tuberculosis herd test with negative results conducted within 1 year prior to movement. Additionally, for cattle, bison, and goats, the certificate must state that the animals have been classified negative to two additional official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. For captive cervids, the certificate must state that the cervids have been classified negative to two additional official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement. All animals that are so moved that are not individually identified by a registration name and number must be officially identified.

The proposed interstate movement requirements from accreditation preparatory States and zones differ from those for modified accredited States and zones in three ways. First, steers, spayed heifers, and officially identified sexually intact heifers moved to an approved feedlot from an accredited preparatory State or zone would have to test negative to two official tuberculin tests, rather than just one as for modified accredited States and zones. Second, in addition to testing negative to two additional official tuberculin tests, breeding animals not from an accredited herd would have to originate in a herd that has undergone a tuberculosis herd test with negative results. Third, animals from an accredited herd would have to originate in a herd that has completed the necessary testing for accredited status within 1 year prior to the date of movement, and test negative to an official tuberculin test within 60

days prior to movement for cattle, bison, and goats, and within 90 days prior to movement for captive cervids. We believe the additional safeguards are necessary for animals from an accreditation preparatory State or zone to provide assurance that the tuberculosis risk from animals moving from an accreditation preparatory State or zone is no more than that from animals already in an accredited-free State or zone, a modified accredited advanced State or zone, or a modified accredited State or zone.

Nonaccredited States and Zones

In the current regulations, there is a tuberculosis State and zone classification called ''nonmodified accredited.'' The nonmodified accredited classification is a default category for all States or zones that do not qualify for accredited free, accredited free (suspended), or modified accredited. Currently, except for nonmodified accredited, modified accredited represents the highest tuberculosis risk. Therefore, any State or zone not meeting the minimum standards for modified accredited is classified as nonmodified accredited. The current criteria for modified accredited status are that the State or zone comply with the UMR and have had less than a 0.01 percent prevalence of tuberculosis among all herds in the State or zone for the most recent 2 years (with up to 3 affected herds allowed under certain conditions in States or zones with fewer than 30,000 herds). Currently, the only area that is classified as nonmodified accredited is a zone in the State of Michigan.

Under this proposal (proposed § 77.5 for cattle, bison, and goats; proposed § 77.20 for captive cervids), the nonaccredited classification would not cover as wide a risk range as the nonmodified accredited classification under the current regulations. Instead of applying to all States and zones that do not comply with the UMR or that have more than a 0.01 tuberculosis herd prevalence, as does the current nonmodified accredited, it would apply to all States and zones that do not comply with the UMR or that have a tuberculosis herd prevalence rate equal to or in excess of 0.5 percent, since 0.5 percent is the level at which a State or zone would cease to qualify for accreditation preparatory status.

Because any State or zone classified as nonaccredited would represent a relatively high tuberculosis risk, we believe it is necessary to impose stringent restrictions on interstate movement from such States or zones. Therefore, we are proposing (proposed § 77.16 for cattle, bison, and goats; proposed § 77.31 for captive cervids) that no regulated animals may be moved interstate from a nonaccredited State or zone unless they are not known to be infected with or exposed to tuberculosis and they meet one of the following conditions:

1. The animals are accompanied by a certificate stating that they originated in an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that they have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement for cattle, bison, and goats, and within 90 days prior to movement for captive cervids.

2. The animals are accompanied by VS Form 1–27 and are moved interstate in an officially sealed means of conveyance directly to slaughter to an approved slaughtering establishment.

Classification of States and Zones With Regard to Cattle, Bison, and Goats

Under § 77.7 of this proposed rule for cattle, bison, and goats, all States and zones currently designated as accredited free would retain that classification. In addition, the State of New Mexico, currently designated as modified accredited, would be classified as accredited free because New Mexico is a State that has had no affected herds of cattle, bison, or goats for the most recent 3 years and the Administrator has determined that New Mexico has conducted surveillance that demonstrates that wildlife and livestock herds other than cattle, bison, and goats are not infected with tuberculosis.

Under § 77.9 of this proposed rule for cattle, bison, and goats, the State of Texas, currently designated as modified accredited, would be classified as modified accredited advanced. Texas would qualify as modified accredited advanced because it complies with the UMR and, with a prevalence rate of affected herds of approximately .0002 percent, has had a tuberculous herd prevalence rate of less than 0.01 for the most recent 2 years.

The smaller zone in the State of Michigan, currently designated as nonmodified accredited, would be classified as modified accredited. (This zone, described in § 77.11(b) of this proposal with regard to cattle, bison, and goats, is the same zone as that delineated below with regard to captive cervids.) The State of Michigan complies with the UMR and, with a total of four affected herds in the past year, the zone is eligible for consideration by the Administrator for modified accredited status. Because we believe the veterinary infrastructure in the State could effectively detect and respond to the presence of an affected herd in the zone, and because of the limited number of herds in the zone (fewer than 600), it appears that modified accredited status for the smaller zone is warranted.

Classification of States and Zones With Regard to Captive Cervids

Under this proposed rule, we are classifying States and zones according to their tuberculosis risk with regard to captive cervids. We based the classifications we are proposing on preliminary information made available to us by State officials. This preliminary information enabled us to estimate the prevalence of tuberculosis among captive cervid herds in the States, and to determine whether the State has the authority to enforce and complies with the UMR. However, in general, the information we have received from States to date has not enabled us to document that a sufficient number of herds of captive cervids in the State or zone have been tested to ensure that tuberculosis infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. This level of confidence is required by the regulations through its inclusion in the UMR.

Therefore, although we are proposing to classify States and zones according to tuberculosis risk in captive cervids as listed below, we wish to emphasize that, following the public comment period on this proposal, we will make final each proposed classification only if we have not received information demonstrating that the proposed classification should be other than that proposed, and if the State in question has provided us with the information necessary to document that surveillance in the State or zone meets the required standards. In order for each State to know exactly what information it will be required to provide under the final rule, we will allow a ''grace'' period for submission of the necessary information following publication of the final rule. We will not make final any State or zone classifications with regard to captive cervids until each State has had 90 days after publication of the final rule on the general requirements for State risk classification to submit the required information.

We are proposing that States and zones be classified for tuberculosis risk in captive cervids as follows:

Accredited-free States and zones. In proposed § 77.20, an accredited-free State or zone for captive cervids is

defined, with certain exceptions, as a State or zone that is or is part of a State that has the authority to enforce and complies with the UMR, has zero percent prevalence of affected captive cervid herds, and has had no findings of tuberculosis in any captive cervids in the State or zone for the previous 5 years.

Based on the information available to us, we believe the following States and zones meet the conditions in the preceding paragraph and, therefore, we are proposing to classify them as accredited free: Alaska, Colorado, Hawaii, Idaho, Indiana, Louisiana, Maine, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New York, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, Wyoming, and that part of Michigan other than the zone described under ''Modified accredited States and zones,'' below.

Modified accredited advanced States and zones. In proposed § 77.20, a modified accredited advanced State or zone for captive cervids is defined, with one exception, as a State or zone that is or is part of a State that has the authority to enforce and complies with the UMR, and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of captive cervids in the State or zone for the most recent 2 years.

Based on the information available to us, we believe the following States meet the conditions in the preceding paragraph and, therefore, we are proposing to classify them as modified accredited advanced: Arizona, California, Florida, Georgia, Kansas, Kentucky, Mississippi, Missouri, New Jersey, North Carolina, Pennsylvania, Tennessee, and Wisconsin.

Modified accredited States and zones. In proposed § 77.20, a modified accredited State or zone for captive cervids is defined, with one exception, as a State or zone that is or is part of a State that has the authority to enforce and complies with the UMR, and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of captive cervids in the State or zone for the most recent year.

Based on the information available to us, we believe the following zone meets the conditions in the preceding paragraph and, therefore, we are proposing to classify it as modified accredited: A zone in Michigan delineated by starting at the juncture of State Route 55 and Interstate 75, then heading northwest and north along Interstate 75 to the Straits of Mackinac, then southeast and south along the shoreline of Michigan to the eastern terminus of State Route 55, then west along State Route 55 to Interstate 75.

Accreditation preparatory States and zones. In proposed § 77.20, an accreditation preparatory State or zone for captive cervids is defined as a State or zone that is or is part of a State that has the authority to enforce and complies with the UMR, and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of captive cervids in the State or zone.

Based on the information available to us, we believe the following States meet the conditions in the preceding paragraph and, therefore, we are proposing to classify them as accreditation preparatory: Alabama, Arkansas, Connecticut, Delaware, Illinois, Iowa, Maryland, Massachusetts, New Mexico, Ohio, Puerto Rico, Rhode Island, the Virgin Islands of the United States, and West Virginia.

Nonaccredited States and zones. In proposed § 77.20, a nonaccredited State or zone for captive cervids is defined as a State or zone that is or is part of a State that does not meet the standards of the UMR or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of captive cervids in the State or zone.

Based on the information available to us, we do not believe that any States or zones meet the criteria for nonaccredited status.

Captive Cervids From Unclassified Herds

Under the current regulations, the interstate movement requirements for captive cervids are based on the status of the herds the animals are part of. The four categories of herds for captive cervids under the current regulations are accredited, qualified, monitored, and unclassified. As noted above, we are proposing to allow captive cervids to be moved interstate according to the applicable State or zone movement requirements or the applicable individual herd requirements, whichever are less restrictive.

We are proposing however, to make a change to the provisions governing the movement from unclassified herds. Under the current regulations, cervids that are not known to be infected with or exposed to tuberculosis and that are from unclassified herds may be moved interstate if the cervids have tested negative to two official tuberculosis tests conducted no less than 90 days apart, provided the second test was conducted within 90 days prior to the date of movement.

Although we believe that the two tests currently required for unclassified herds are adequate to address the tuberculosis risk in certain States, that testing requirement would not adequately address the risk posed by animals moving from States or zones of relatively higher risk—*e.g.,* those States or zones that would be classified as accreditation preparatory or nonaccredited with regard to captive cervids.

Therefore, we are proposing to amend the conditions for interstate movement from unclassified herds (set forth in § 77.15 of the current regulations and § 77.38 of this proposed rule) to remove the provision that captive cervids from unclassified herds may move interstate following two negative tests 90 days apart. By removing this provision, we would make cervids from an unclassified herd subject to the movement requirements for the State or zone in which the herd is located.

Captive Cervids Moved for Exhibition

We are also proposing to amend the interstate movement requirements for captive cervids from a qualified herd in order to address the movement of cervids solely for exhibition. Under the regulations, to be eligible for qualified herd status, all captive cervids in the herd eligible for testing must have tested negative to an official tuberculosis test. Additionally, a captive cervid moved interstate from a qualified herd must be accompanied by a certificate that states that the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement.

Certain cervids, however, are moved interstate only for a limited period of time for exhibition and do not necessarily come into contact with other livestock. If the cervids are from a qualified herd, which means that they have already been tested negative once, and are kept isolated from other livestock after they leave the premises of origin, we believe they can be moved interstate for a limited period of time for exhibition with minimal risk of transmitting tuberculosis.

Therefore, we are proposing in § 77.36(b)(4) that captive cervids from a qualified herd moved interstate for the purpose of exhibition only may be moved without testing, provided they are returned to the premises of origin no more than 90 days after leaving the premises, have no contact with other livestock during movement and exhibition, and are accompanied by a certificate that includes a statement that the captive cervid is from a qualified

herd and will meet the requirements of this paragraph.

Changes to Definitions

We are proposing to revise certain of the definitions currently used in the regulations in order to clarify our intent regarding those definitions and to make those that would be used regarding cattle, bison, and goats consistent with those that would be used regarding captive cervids.

Certificate: Throughout the current regulations for both cattle and bison and captive cervids, the term ''certificate'' is used a number of times. Our intent is to apply the same definition to that term wherever it is used in part 77.

Currently, there is a definition of *certificate* in § 77.1 regarding cattle and bison. Although there is currently no definition of *certificate* in § 77.8 regarding captive cervids, there is a description in § 77.9(c) of the information that must be included on a certificate. Certain of the information included under the definition in § 77.1 is not included in the description in § 77.9(c). Our intent, however, is to require that the basic information supplied on a certificate regarding captive cervids be the same as that supplied regarding cattle, bison, and goats. Therefore, we are moving the definition of *certificate* from the current cattle and bison definitions to revised § 77.2, which would include definitions applicable to all of part 77. We would define *certificate* to mean an official document issued by an APHIS representative, a State representative, or an accredited veterinarian at the point of origin of a shipment of livestock to be moved under this part, which shows the identification tag, tattoo, or registration number or similar identification of each animal to be moved; the number, breed, sex, and approximate age of the animals covered by the document; the purpose for which the animals are to be moved; the date and place of issuance; the points of origin and destination; the consignor and the consignee; and which states that the animal or animals identified on the certificate meet the requirements of part 77.

Official seal. Both the current and proposed regulations refer to means of conveyance that are ''officially sealed.'' There is no definition of *officially sealed* in current § 77.8 regarding captive cervids. The definition in current § 77.1 regarding cattle and bison reads ''a seal issued by a State or APHIS representative.'' In 9 CFR part 78, which contains the regulations dealing with brucellosis in domestic livestock, there is a definition of ''official seal'' that more precisely clarifies our intent regarding that term. Therefore, we are proposing to use that definition in proposed § 77.2 to apply to all of part 77. ''Official seal'' as used in part 77 would mean a seal issued by a State or APHIS representative, consisting of a serially numbered, metal or plastic strip, with a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and that cannot be reused if opened, or a serially numbered, self-locking button that can be used for this purpose.

We are also proposing to revise the definition of *officially identified.* That term is currently used in the regulations regarding cattle and bison and also in this proposed rule regarding cattle, bison, goats, and captive cervids. Under the current regulations, an animal that is officially identified is identified by means of an official eartag, individual tattoo, or individual hot brand. Our intent with regard to such animals is that they be identified so as to provide unique identification of each animal, to allow for traceback of an animal to its source in the event of disease detection. We are proposing to revise the definition of *officially identified* to make that intent clear.

Additionally, we are proposing to revise the definition of *captive cervid.* In summary, the current definition includes all cervids raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition. The current definition does not cover wild cervids that are not raised or maintained in captivity but that are moved interstate, such as those that are moved from one location to another in order to establish or expand a wild population in the destination location. We believe that not applying the regulations to the movement of such cervids creates an unacceptable risk of infected animals being transported interstate. Therefore, we are proposing to revise the definition of *captive cervid* to include all cervids, including wild cervids, that are moved interstate.

The current regulations with regard to captive cervids include definitions of official tuberculin tests. In these definitions, reference is made to ''PPD'' tuberculin. The acronym ''PPD'' stands for ''purified protein derivative.'' To make clear to the reader what we mean by PPD, we are adding a definition of purified protein derivative (PPD) to mean protein extract from an *M. bovis* culture that is resuspended in solution at a standard concentration of 1 mg protein per 1 ml of solution.

Additionally, certain other terms are used currently in both the provisions regarding cattle and bison, and those regarding captive cervids, but are defined in only one of the two current subparts in part 77. For consistency, we are adding those definitions to the new § 77.2 to apply to all of part 77. Those definitions that are applicable only to cattle, bison, and goats, or to captive cervids would be set forth in the subpart that deals specifically with the animals in question.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Bovine tuberculosis is a communicable disease of cattle, bison, cervids and other species, including humans, and results in losses in meat and milk production and sterility among infected animals. The Cooperative State-Federal Tuberculosis Eradication program has virtually eliminated bovine tuberculosis from the Nation's livestock population. However, we believe changes to the tuberculosis regulations are needed to further the efforts toward complete eradication.

Currently, the tuberculosis regulations define State risk status levels for cattle and bison. However, the status levels provide only for three broadly drawn classifications of risk, and two of the classifications carry no restrictions on the interstate movement of cattle and bison not known to be infected with tuberculosis. The regulations do not provide status levels for captive cervids; nor do they apply to goats. This proposed rule would increase the number of risk classifications, establish risk classifications for States and zones with regard to captive cervids, and apply the regulations to goats. The classification of a State or zone with regard to cattle, bison, and goats would not necessarily be the same as its classification with regard to captive cervids. Under this proposed rule, the five possible risk classifications would be accredited free, modified accredited advanced, modified accredited, accreditation preparatory, and nonaccredited.

Cattle, Bison, and Goats

In 1998, the total number of cattle and bison in the United States was approximately 99.5 million, valued at approximately $58.6 billion. That year, there were 1,115,650 U.S. operations with cattle and bison. Over 98.5 percent of these operations had a gross cash

value of less than $500,000. There were 63,806 goat producers in the United States, who raised about 1.99 million animals valued at approximately $74 million. These goat holdings vary in size and degree of commercialization, with many producers relying on other sources of income. Most, if not all, goat operations are relatively small and earn less than $500,000.

The U.S. cattle industry plays a very significant role in international trade. In 1998, the total earnings from exports of live cattle, beef and veal were approximately $ 2.6 billion. The U.S. competitiveness in international markets depends to a great degree upon its reputation for producing high quality animals, a reputation that would be enhanced if bovine tuberculosis were eradicated in this country. The product, as well as purchasers' perceptions of quality, contributes to continued world market acceptance. Thus, efforts to maintain an effective tuberculosis program, to clarify the regulations, and to secure the health of the cattle industry will continue to serve the best economic interests of the Nation.

Currently, with regard to tuberculosis State or zone classification for cattle, bison, and goats, there are 47 accredited-free States, plus Puerto Rico and the Virgin Islands of the United States. As a result of this rule change, one modified accredited State (New Mexico) would become accredited free, bringing the total to 48 States that are entirely accredited free. A currently modified accredited State (Texas) would be classified as modified accredited advanced. One State (Michigan) is accredited free except for a single zone, which is nonmodified accredited. The zone in Michigan currently classified as accredited free would retain that status, and the zone in Michigan currently classified as nonmodified accredited would be classified as modified accredited.

The primary difference among the restrictions on interstate movement from the different proposed classifications is how many, if any, tuberculin tests with negative results the animal to be moved must undergo. The same test is used for cattle, bison, goats, and cervids and the cost of tuberculin testing for an average-sized herd is $380. The approximate per animal testing cost is $4.30, compared to an average value of approximately $600 for a head of cattle, $1,500 for a bison, and $40 for a goat.

Under this proposed rule, even though the status of a zone in Michigan would change, the testing requirements for cattle and bison moved interstate from that zone would be the same as under the current regulations. For Texas, the only change in testing requirements for cattle and bison moved interstate would be the addition of one test for breeding animals. Additionally, goats not from an accredited herd that are to be moved interstate would have to be tested once with negative results.

The cost of the required testing would depend on the number of animals to be moved interstate. Although we do not know how many cattle, bison, and goats are currently moved interstate from Texas from herds that are not accredited, the cost of a test per animal under this proposed rule would be less than 1 percent of the value of an average head of cattle and an even smaller percentage of the value of a bison. Although the cost of a test for a goat would constitute a greater percentage of its value, the test requirement would apply only to the fraction of animals moved interstate, and of that number, only to those animals not part of an accredited herd.

Captive Cervids

We are also proposing to establish five risk classifications for States and zones with regard to captive cervids: Accredited free, modified accredited advanced, modified accredited, accreditation preparatory, and nonaccredited. According to the new classification system, there would be 24 accredited-free States, 13 modified accredited advanced States, 12 accreditation preparatory States (and Puerto Rico and the Virgin Islands of the United States), and one State that has a modified accredited advanced zone and an accredited-free zone. There are 4,239 known herds of captive cervids in the United States, totaling about 165,200 cervids. The average market values of deer and elk, which together constitute virtually the entire population of captive cervids, are $600 and $3,500 respectively.

The proposed accredited-free States would account for approximately 77 percent of the known captive cervid population, modified accredited advanced for 11 percent, and accreditation preparatory for less than .3 percent. The State with split status would account for 12 percent. Fewer than 10 percent of captive cervids are moved interstate. Those not moved interstate would not be subject to this proposed rule. Under this proposed rule, owners of captive cervids to be moved interstate could move their animals according to the less restrictive of either the animals' herd status under the current regulations or the State or zone status under this proposed rule. Therefore, this proposed rule should have no negative economic effects on the owners of captive cervids. Owners of herds that are not accredited but that are located in accredited-free States or zones could save the cost of one or two tests per animal. The most that would be saved per animal would be less than 2 percent of the value of each deer and less than 1 percent of the value of each elk.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be prohibited; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 99–038–1. Please send a copy of your comments to: (1) Docket No. 99–038–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would establish several new levels of tuberculosis risk classifications to be applied to States and zones within States, and would classify States and zones according to

their tuberculosis risk with regard to captive cervids. Additionally, it would specify that the regulations apply to goats as well as to cattle, bison, and captive cervids and increase the amount of testing that must be done before certain cattle, bison, and goats may be moved interstate.

In order to qualify for and retain a particular risk classification, a State or zone would be required to file a report with APHIS. Additionally, for movement from any State or zone other than accredited-free, certain animals to be moved would have to be tested and, in some cases, accompanied by a certificate. If tuberculosis is diagnosed in an animal not covered by the regulations within any State or zone other than one that is classified as nonaccredited, and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must adopt a tuberculosis management plan approved jointly by the State animal health official and the APHIS Administrator.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .30608 hours per response.

Respondents: State animal health authorities, including State veterinarians and designated State tuberculosis epidemiologists.

Estimated annual number of respondents: 250.

Estimated annual number of responses per respondent: 8.416.

Estimated annual number of responses: 2,104.

Estimated total annual burden on respondents: 644 hours.

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Incorporation by reference, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, we propose to revise 9 CFR part 77 to read as follows:

PART 77—TUBERCULOSIS

Subpart A—General Provisions

Sec.

77.1 Material incorporated by reference.
77.2 Definitions.
77.3 Tuberculosis classifications of States and zones.
77.4 Application for and retention of zones.

Subpart B—Cattle, Bison, and Goats

77.5 Definitions.
77.6 Applicability of this subpart.
77.7 Accredited-free States or zones.
77.8 Interstate movement from accredited-free States and zones.
77.9 Modified accredited advanced States or zones.
77.10 Interstate movement from modified accredited advanced States and zones.
77.11 Modified accredited States or zones.
77.12 Interstate movement from modified accredited States and zones.
77.13 Accreditation preparatory States or zones.
77.14 Interstate movement from accreditation preparatory States and zones.
77.15 Nonaccredited States or zones.
77.16 Interstate movement from nonaccredited States and zones.
77.17 Interstate movement of cattle, bison, and goats that are exposed, reactors, or suspects, or from herds containing suspects.
77.18 Other movements.
77.19 Cleaning and disinfection of premises, conveyances, and materials.

Subpart C—Captive Cervids

77.20 Definitions.
77.21 Applicability of this subpart.
77.22 Accredited-free States or zones.
77.23 Interstate movement from accredited-free States and zones.
77.24 Modified accredited advanced States or zones.
77.25 Interstate movement from modified accredited advanced States and zones.
77.26 Modified accredited States or zones.
77.27 Interstate movement from modified accredited States and zones.
77.28 Accreditation preparatory States or zones.
77.29 Interstate movement from accreditation preparatory States and zones.
77.30 Nonaccredited States or zones.
77.31 Interstate movement from nonaccredited States and zones.
77.32 General restrictions.
77.33 Testing procedures for tuberculosis in captive cervids.
77.34 Official tuberculosis tests.
77.35 Interstate movement from accredited herds.
77.36 Interstate movement from qualified herds.
77.37 Interstate movement from monitored herds.
77.38 Interstate movement from herds that are not accredited, qualified, or monitored.
77.39 Other interstate movements.
77.40 Procedures for and interstate movement to necropsy and slaughter.

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Subpart A—General Provisions

§ 77.1 Material incorporated by reference.

Uniform Methods and Rules—Bovine Tuberculosis Eradication. The Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition has been approved for incorporation by reference into the Code of Federal Regulations by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(a) The procedures specified in the Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition must be followed for the interstate movement of certain animals regulated under this part.

(b) Copies of the Uniform Methods and Rules—Bovine Tuberculosis Eradication:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC;

(2) Are available for inspection at the APHIS reading room, room 1141, USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC; or

(3) May be obtained from the National Animal Health Programs, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

§ 77.2 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of subchapter J to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal. All species of animals except man, birds, or reptiles.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Certificate. An official document issued by an APHIS representative, a State representative, or an accredited veterinarian at the point of origin of a shipment of livestock to be moved under this part, which shows the identification tag, tattoo, or registration number or similar identification of each animal to be moved; the number, breed, sex, and approximate age of the animals covered by the document; the purpose for which the animals are to be moved; the date and place of issuance; the points of origin and destination; the consignor and the consignee; and which states that the animal or animals identified on the certificate meet the requirements of this part.

Cooperating State and Federal animal health officials. The State and Federal animal health officials responsible for overseeing and implementing the National Cooperative State/Federal Bovine Tuberculosis Eradication Program.

Depopulate. To destroy all livestock in a herd by slaughter or by death otherwise.

Designated tuberculosis epidemiologist (DTE). A State or Federal epidemiologist designated by the Administrator to make decisions concerning the use and interpretation of diagnostic tests for tuberculosis and the management of tuberculosis affected herds.

Epidemiologic investigation. An investigation that is conducted by a State in conjunction with APHIS representatives, in which an official test for tuberculosis is conducted on all livestock in any tuberculosis-affected herd in a State or zone, as well as on all livestock in any herd into which livestock from the affected herd have been moved.

Herd. Any group of livestock maintained on common ground for any purpose, or two or more groups of livestock under common ownership or supervision, geographically separated but that have an interchange or movement of livestock without regard to health status, as determined by the Administrator. (A group means one or more animals.)

Interstate. From one State into or through any other State.

Livestock. Cattle, bison, cervids, swine, goats, and other hoofed animals (such as llamas, alpacas, and antelope) raised or maintained in captivity for the production of meat and other products, for sport, or for exhibition, as well as previously free-ranging cervids that are captured, identified, and moved interstate.

Moved. Shipped, transported, or otherwise moved, or delivered or received for movement.

Moved directly. Moved without stopping or unloading at livestock assembly points of any type. Livestock being moved directly may be unloaded from the means of conveyance while en route only if the animals are isolated so that they cannot mingle with any livestock other than those with which they are being shipped.

Official eartag. An eartag approved by the Administrator as providing unique identification for each individual animal by conforming to the alpha-numeric National Uniform Eartagging System.

Official seal. A seal issued by a State or APHIS representative, consisting of a serially numbered, metal or plastic strip, with a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and that cannot be reused if opened, or a serially numbered, self-locking button that can be used for this purpose.

Officially identified. Identified by means of an official eartag or by means of an individual tattoo or hot brand that provides unique identification for each animal.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

State. Any State, territory, the District of Columbia, or Puerto Rico.

State animal health official. The State official responsible for livestock and poultry disease control and eradication programs.

State representative. A veterinarian or other person employed in livestock sanitary work of a State or a political subdivision of a State and who is authorized by such State or political subdivision of a State to perform the function involved under a memorandum of understanding with APHIS.

Transportation document. Any document accompanying the interstate movement of livestock, such as an owner's statement, manifest, switch order, or vehicle record, on which is stated the point from which the animals are moved interstate, the destination of the animals, the number of animals covered by the document, and the name and address of the owner or shipper.

Tuberculosis. The contagious, infectious, and communicable disease caused by *Mycobacterium bovis.* (Also referred to as bovine tuberculosis.)

Zone. A defined geographic land area identifiable by geological, political, manmade, or surveyed boundaries, with mechanisms of disease spread, epidemiological characteristics, and the ability to control the movement of animals across the boundaries of the zone taken into account.

§ 77.3 Tuberculosis classifications of States and zones.

The Administrator shall classify each State for tuberculosis in accordance with this part. A zone composed of less than an entire State will be given a particular classification upon request of the State only if the Administrator determines that:

(a) The State meets the requirements of this part for establishment of zones;

(b) The State has adopted and is enforcing regulations that impose restrictions on the intrastate movement of cattle, bison, goats, and captive cervids that are substantially the same as those in place under this part for the interstate movement of cattle, bison, goats, and captive cervids; and

(c) The designation of part of a State as a zone will otherwise be adequate to prevent the interstate spread of tuberculosis.

§ 77.4 Application for and retention of zones.

(a) A State animal health official may request at any time that the Administrator designate part of a State as having a different tuberculosis classification under this part than the rest of the State. The requested zones must be delineated by the State animal health authorities, subject to approval by the Administrator. The request from the State must demonstrate that the State complies with the following requirements:

(1) The State must have the legal and financial resources to implement and enforce a tuberculosis eradication program and must have in place an infrastructure, laws, and regulations that require and ensure that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife;

(2) The State in which the intended zones are located must maintain, in each intended zone, clinical and epidemiological surveillance of animal species at risk of tuberculosis at a rate that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95

percent confidence. The designated tuberculosis epidemiologist must review reports of all testing for each zone within the State within 30 days of the testing; and

(3) The State must enter into a memorandum of understanding with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request.

(b) Retention of APHIS recognition of a zone is subject to annual review by the Administrator. To retain recognition of a zone, a State must continue to comply with the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this section and must retain for 2 years all certificates required under this part for the movement of cattle, bison, goats, and captive cervids.

Subpart B—Cattle, Bison, and Goats

§ 77.5 Definitions.

As used in this subpart B, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accreditation preparatory State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of cattle, bison, and goats in the State or zone.

Accredited-free State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication,'' has zero percent prevalence of affected cattle, bison, and goat herds, and has had no findings of tuberculosis in any cattle, bison, or goats in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

Accredited herd. To establish or maintain accredited herd status, the herd owner must comply with all of the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' regarding accredited herds. All cattle, bison, and goats in a herd must be free from tuberculosis.

Affected herd. A herd in which tuberculosis has been disclosed in any cattle, bison, or goats by an official tuberculin test or by postmortem examination.

Approved feedlot. A confined area approved jointly by the State animal health official and the Administrator for feeding cattle and bison for slaughter, with no provisions for pasturing or grazing.

Approved slaughtering establishment. A slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State-inspected slaughtering establishment that has inspection by a State inspector at the time of slaughter.

Cattle, bison, and goats not known to be affected. All cattle, bison, and goats except those originating from tuberculosis affected herds or from herds containing tuberculosis suspect cattle, bison, or goats.

Department. The U.S. Department of Agriculture (USDA).

Exposed cattle, bison, and goats. Cattle, bison, and goats, except reactor cattle, bison, and goats, that are part of an affected herd.

Modified accredited State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of cattle, bison, and goats in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Modified accredited advanced State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle, bison, and goats in the State or zone for each of the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Negative cattle, bison, and goats. Cattle, bison, and goats that are classified negative for tuberculosis in accordance with the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication,'' based on the results of an official tuberculin test.

Nonaccredited State or zone. A State or zone that is or is part of a State that does not meet the standards of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of cattle, bison, and goats in the State or zone.

Official tuberculin test. Any test for tuberculosis conducted on cattle, bison, or goats in accordance with the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.''

Permit. An official document issued for movement of cattle, bison, or goats under this part by an APHIS representative, State representative, or an accredited veterinarian at the point of origin of a shipment of cattle, bison, or goats to be moved directly to slaughter, that shows the tuberculosis status of each animal (reactor, suspect, or exposed), the eartag number of each animal and the name of the owner of such animal, the establishment to which the animals are to be moved, the purpose for which the animals are to be moved, and that they are eligible for such movement under the applicable provisions of §§ 77.17 and 77.18.

Reactor cattle, bison, and goats. Cattle, bison, and goats that are classified as reactors for tuberculosis in accordance with the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.''

Suspect cattle, bison, and goats. Cattle, bison, and goats that are classified as suspects for tuberculosis in accordance with the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.''

Uniform Methods and Rules—Bovine Tuberculosis Eradication. Uniform methods and rules for eradicating bovine tuberculosis in the United States, approved by APHIS on January 22, 1999, which is incorporated by reference at § 77.1.

Zero percent prevalence. No finding of tuberculosis in any cattle, bison, or goat herd in a State or zone.

§ 77.6 Applicability of this subpart.

All references in this subpart to the tuberculosis status of States and zones

pertain to such status for cattle, bison, and goats only.

§ 77.7 Accredited-free States or zones.

(a) The following are accredited-free States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, the Virgin Islands of the United States, Washington, West Virginia, Wisconsin, and Wyoming.

(b) The following are accredited-free zones: A zone in Michigan consisting of that part of the State outside the zone in Michigan described in § 77.11(b).

(c) If an affected herd is detected in a State or zone classified as accredited-free, and the herd is depopulated and an epidemiologic investigation is completed within 90 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. If two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone will be removed from the list of accredited-free States or zones and will be reclassified as either modified accredited advanced, modified accredited, accreditation preparatory, or nonaccredited.

(d) If any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition,'' which is incorporated by reference at § 77.1, to those other livestock in the same manner as to cattle, bison, and goats. Failure to do so will result in reclassification of the State or zone as modified accredited advanced.

(e) If tuberculosis is diagnosed within an accredited-free State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will lose its accredited-free status and will be reclassified as modified accredited advanced.

(f) Accredited-free State or zone status must be renewed annually. To qualify for renewal of accredited-free State or zone status, a State must submit an annual report to APHIS certifying that the State or zone within the State complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.'' The report must be submitted to APHIS each year between October 1 and November 30.

§ 77.8 Interstate movement from accredited-free States and zones.

Cattle, bison, or goats that originate in an accredited-free State or zone may be moved interstate without restriction.

§ 77.9 Modified accredited advanced States or zones.

(a) The following are modified accredited advanced States: Texas.

(b) The following are modified accredited zones: None.

(c) If any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition,'' which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to cattle, bison, and goats. Failure to do so will result in the removal of the State or zone from the list of modified accredited advanced States or zones and its being reclassified as modified accredited.

(d) If tuberculosis is diagnosed within a modified accredited advanced State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held or exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as modified accredited.

(e) Modified accredited advanced State or zone status must be renewed annually. To qualify for renewal of a modified accredited advanced State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.'' The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for accredited-free status, a modified accredited advanced State or zone must demonstrate to the Administrator that it complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication,'' has zero percent prevalence of affected cattle and bison herds, and has had no findings of tuberculosis in any cattle, bison, or goats in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

§ 77.10 Interstate movement from modified accredited advanced States and zones.

Cattle, bison, or goats that originate in a modified accredited advanced State or

zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle, bison, or goats are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) If the cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers moved to an approved feedlot, they may be moved interstate without restriction.

(c) Cattle, bison, or goats that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(d) If the cattle, bison, or goats are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement. All cattle, bison, and goats so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.11 Modified accredited States or zones.

(a) The following are modified accredited States: None.

(b) The following are modified accredited zones: A zone in Michigan delineated by starting at the juncture of State Route 55 and Interstate 75, then heading northwest and north along Interstate 75 to the Straits of Mackinac, then southeast and south along the shoreline of Michigan to the eastern terminus of State Route 55, then west along State Route 55 to Interstate 75.

(c) If any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition,'' which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Failure to do so will result in the removal of the State or zone from the list of modified accredited States or zones and its being reclassified as accreditation preparatory.

(d) If tuberculosis is diagnosed within a modified accredited State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as accreditation preparatory.

(e) Modified accredited State or zone status must be renewed annually. To qualify for renewal of a modified accredited State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.'' The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited advanced status, a modified accredited State or zone must demonstrate to the Administrator that it complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and that tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle, bison, and goats in the State or zone for the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

§ 77.12 Interstate movement from modified accredited States and zones.

Cattle, bison, or goats that originate in a modified accredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle, bison, or goats are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) If the cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers moved to an approved feedlot, they must be accompanied by a certificate stating that they have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

(c) Cattle, bison, or goats that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(d) If the cattle, bison, or goats are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. All cattle, bison, and goats so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.13 Accreditation preparatory States or zones.

(a) The following are accreditation preparatory States: None.

(b) The following are accreditation preparatory zones: None.

(c) If any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition,'' which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Failure to do so will result in the removal of the State or zone from the list of accreditation preparatory States or zones and its being reclassified as nonaccredited.

(d) If tuberculosis is diagnosed within an accreditation preparatory State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the

diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as nonaccredited.

(e) Accreditation preparatory State or zone status must be renewed annually. To qualify for renewal of accreditation preparatory State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.'' The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited status, an accreditation preparatory State or zone must demonstrate to the Administrator that it complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and that tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of cattle, bison, and goats in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

§ 77.14 Interstate movement from accreditation preparatory States and zones.

Cattle, bison, or goats that originate in an accreditation preparatory State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle, bison, or goats are moved interstate for slaughter directly to an approved slaughtering establishment.

(b) If the cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers moved to an approved feedlot, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

(c) Cattle, bison, or goats that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that the animals to be moved have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement. All cattle, bison, and goats that are so moved that are not individually identified by a registration name and number must be officially identified.

(d) If the cattle, bison, or goats are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they originated in a herd that has undergone a tuberculosis herd test with negative results conducted within 1 year prior to the date of movement and that the animals to be moved have been classified negative to two additional official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.15 Nonaccredited States or zones.

(a) The following are nonaccredited States: None.

(b) The following are nonaccredited zones: None.

(c) To qualify for accreditation preparatory status, a nonaccredited State or zone must demonstrate to the Administrator that it complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and that tuberculosis is prevalent in less than 0.5 percent of the total number of herds of cattle, bison, and goats in the State or zone.

§ 77.16 Interstate movement from nonaccredited States and zones.

Cattle, bison, or goats that originate in a nonaccredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle, bison, or goats are accompanied by VS Form 1–27 and are moved interstate for slaughter in an officially sealed means of conveyance directly to an approved slaughtering establishment.

(b) The cattle, bison, or goats are from an accredited herd and are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that the cattle, bison, and goats have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement.

§ 77.17 Interstate movement of cattle, bison, and goats that are exposed, reactors, or suspects, or from herds containing suspects.

(a) *Reactor cattle, bison, and goats.* Cattle, bison, or goats that have been classified as reactor cattle, bison, or goats may be moved interstate only if they are moved directly to slaughter at an approved slaughtering establishment and only in accordance with the following conditions:

(1) Reactor cattle, bison, and goats must be individually identified by attaching to the left ear an approved metal eartag bearing a serial number and the inscription ''U.S. Reactor'', or a similar State reactor tag, and must be:

(i) Branded with the letter ''T,'' at least 5 by 5 centimeters (2 by 2 inches) in size, high on the left hip near the tailhead; or

(ii) Permanently identified with the letters ''TB'' tattooed legibly in the left ear and sprayed with yellow paint on the left ear and either accompanied directly to slaughter by an APHIS or State representative or moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(2) The reactor cattle, bison, or goats must be accompanied by a permit; and

(3) The reactor cattle, bison, or goats may not be moved interstate in a means of conveyance containing any animals susceptible to tuberculosis unless all of the animals are being moved directly to slaughter; and

(4) Any person who moves reactor cattle, bison, or goats interstate under this paragraph must plainly write or stamp upon the face of the transportation document the words ''Tuberculin Reactor'' and the following statement: ''This conveyance must be cleaned and disinfected in accordance with 9 CFR 77.17(a)(5).''; and

(5) Each means of conveyance in which reactor cattle, bison, or goats

have been transported interstate under this paragraph must be cleaned and disinfected by the carrier, in accordance with the provisions of §§ 71.6, 71.7, and 71.10 of this subchapter, under the supervision of an APHIS representative or State representative or an accredited veterinarian or other person designated by the Administrator. If, at the point where the cattle, bison, or goats are unloaded, such supervision or proper cleaning and disinfecting facilities are not available, and permission is obtained from an APHIS representative or State representative, the empty means of conveyance may be moved to a location where such supervision and facilities are available for cleaning and disinfecting. Permission will be granted if such movement does not present a risk of disseminating tuberculosis.

(b) *Exposed cattle, bison, and goats.* Except for the movement of exposed cattle to a quarantined feedlot in accordance with § 50.16 of this chapter, exposed cattle, bison, or goats may be moved interstate only if they are moved directly to slaughter to an approved slaughtering establishment and only in accordance with the following conditions:

(1) Exposed cattle, bison, and goats must be individually identified by attaching to either ear an approved metal eartag bearing a serial number and must be:

(i) Branded with the letter ''S,'' at least 5 by 5 centimeters (2 by 2 inches) in size, high on the left hip near the tailhead; or

(ii) Accompanied directly to slaughter by an APHIS or State representative; or

(iii) Moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(2) The exposed cattle, bison, and goats must be moved in accordance with paragraphs (a)(2), (a)(3), and (a)(5) of this section.

(c) *Suspect cattle, bison, and goats.* Suspect cattle, bison, or goats from herds in which no reactor cattle, bison, or goats have been disclosed on an official tuberculin test, as well as negative cattle, bison or goats from such herds, may be moved interstate only if they are moved directly to slaughter to an approved slaughtering establishment.

(Approved by the Office of Management and Budget under control number 0579–0051)

§ 77.18 Other movements.

The Administrator may, with the concurrence of the livestock sanitary official of the State of destination, upon request in specific cases, allow the interstate movement of cattle, bison, or goats not otherwise provided for in this part that have not been classified as reactor cattle, bison, or goats and are not otherwise known to be affected with tuberculosis, under such conditions as the Administrator may prescribe in each specific case to prevent the spread of tuberculosis. The Administrator shall promptly notify the appropriate livestock sanitary official of the State of destination of any such action.

§ 77.19 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering cattle, bison, or goats in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous or reactor livestock must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey, hold, or in any way come in contact with any livestock.

Subpart C—Captive Cervids

§ 77.20 Definitions.

As used in subpart C, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accreditation preparatory State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of captive cervids in the State or zone.

Accredited-free State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication,'' has zero percent prevalence of affected captive cervid herds, and has had no findings of tuberculosis in any captive cervids in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

Accredited herd. A herd of captive cervids that has tested negative to at least three consecutive official tuberculosis tests of all eligible captive cervids in accordance with § 77.33(f) and that meets the standards set forth in § 77.35. The tests must be conducted at 9–15 month intervals.

Affected herd. A herd of captive cervids that contains or that has contained one or more captive cervids infected with *Mycobacterium bovis* (determined by bacterial isolation of *M. bovis*) and that has not tested negative to the three whole herd tests as prescribed in § 77.39(d).

Blood tuberculosis (BTB) test. A supplemental test for tuberculosis in cervids.

Captive cervid. All species of deer, elk, moose, and all other members of the family Cervidae raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition, or any cervid (either wild or raised or maintained in captivity) that is moved interstate. A captive cervid that escapes will continue to be considered a captive cervid as long as it bears an official eartag or other identification approved by the Administrator as unique and traceable with which to trace the animal back to its herd of origin.

Comparative cervical tuberculin (CCT) test. The intradermal injection of biologically balanced USDA bovine PPD tuberculin and avian PPD tuberculin at separate sites in the mid-cervical area to determine the probable presence of bovine tuberculosis (*M. bovis*) by comparing the response of the two tuberculins at 72 hours (plus or minus 6 hours) following injection.

Designated accredited veterinarian. An accredited veterinarian who is trained and approved by cooperating State and Federal animal health officials to conduct the single cervical tuberculin (SCT) test on captive cervids.

Exposed captive cervid. Any captive cervid that has been exposed to tuberculosis by reason of associating with captive cervids, cattle, bison, or other livestock from which *M. bovis* has been isolated.

Modified accredited State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of captive cervids in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Modified accredited advanced State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of captive cervids in the State or zone for the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Monitored herd. A herd on which identification records are maintained on captive cervids inspected for tuberculosis at an approved slaughtering establishment or an approved diagnostic laboratory and on captive cervids tested for tuberculosis in accordance with interstate movement requirements, and which meets the standards set forth in § 77.37.

Negative. Showing no response to the SCT test or the CCT test, classified by the testing laboratory as ''avian'' or ''negative'' on the BTB test, or classified negative for tuberculosis by the testing veterinarian based upon history, supplemental tests, examination of the carcass, and histopathology and culture of selected tissues.

No gross lesions (NGL). Having no visible lesions indicative of bovine tuberculosis detected upon necropsy or slaughter inspection.

Nonaccredited State or zone. A State or zone that is or is part of a State or zone that does not meet the standards of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of captive cervids in the State or zone.

Official tuberculosis test. Any of the following tests for bovine tuberculosis in captive cervids, applied and reported in accordance with this part:

(1) The single cervical tuberculin (SCT) test;

(2) The comparative cervical tuberculin (CCT) test; and

(3) The blood tuberculosis (BTB) test.

Permit. An official document issued by a representative of APHIS, a State representative, or an accredited veterinarian that must accompany any reactor, suspect, or exposed captive cervid moved interstate.

Purified protein derivative (PPD). Protein extract from an *M. bovis* culture that is resuspended in solution at a standard concentration of 1 mg protein per 1 ml of solution.

Qualified herd. A herd of captive cervids that has tested negative to at least one official tuberculosis test of all eligible captive cervids (see § 77.33(f)) within the past 12 months and that is not classified as an accredited herd.

Quarantine. Prohibition from interstate movement, except for slaughter or necropsy.

Reactor. Any captive cervid that shows a response to the SCT test or the CCT test, or is classified by the testing laboratory as ''*M. bovis* positive'' on the BTB test, and is classified a reactor by the testing veterinarian; or any suspect captive cervid that is classified a reactor upon slaughter inspection or necropsy after histopathology and/or culture of selected tissues by the USDA or State veterinarian performing or supervising the slaughter inspection or necropsy.

Regular-kill slaughter animal. An animal that is slaughtered for food or any reason other than because of a disease regulated under 9 CFR chapter I (such as tuberculosis, brucellosis, or any other livestock disease for which movement of animals is restricted under 9 CFR chapter I).

Single cervical tuberculin (SCT) test. The intradermal injection of 0.1 ml (5,000 tuberculin units) of USDA PPD bovis tuberculin in the mid-cervical area with a reading by visual observation and palpation at 72 hours (plus or minus 6 hours) following injection.

Suspect. Any captive cervid that is not negative to the SCT test or the CCT test, or that is classified by the testing laboratory as equivocal on the BTB test, and that is not classified as a reactor by the testing veterinarian.

Tuberculin. A product that is approved by and produced under USDA license for injection into cervids and other animals for the purpose of detecting bovine tuberculosis.

Tuberculous. Having lesions indicative of tuberculosis, infected with tuberculosis based on isolation of *M. bovis,* or being from a herd in which *M. bovis* has been isolated.

USDA. The United States Department of Agriculture.

Whole herd test. An official tuberculosis test of all test eligible animals in the herd.

Zero percent prevalence. No finding of tuberculosis in any herd of captive cervids in a State or zone.

§ 77.21 Applicability of this subpart.

All references in this subpart to the tuberculosis status of States and zones pertain to such status for captive cervids.

§ 77.22 Accredited-free States or zones.

(a) The following are accredited-free States: None.

(b) The following are accredited-free zones: None.

(c) If an affected herd is detected in a State or zone classified as accredited-free, and the herd is depopulated and a complete epidemiologic investigation is completed within 120 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. If two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone will be removed from the list of accredited-free States or zones and will be reclassified as modified accredited advanced.

(d) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999 edition,'' which is incorporated by reference at § 77.1, to those other livestock in the same manner as to captive cervids. Failure to do so will result in reclassification of the State or zone as modified accredited advanced.

(e) If tuberculosis is diagnosed within an accredited-free State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by

the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will lose its accredited-free status and will be reclassified as modified accredited advanced.

(f) Accredited-free State or zone status must be renewed annually. To qualify for renewal of accredited-free State or zone status, a State must submit an annual report to APHIS certifying that the State or zone within the State complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.'' The report must be submitted to APHIS each year between October 1 and November 30.

§ 77.23 Interstate movement from accredited-free States and zones.

Notwithstanding any other provisions of this part, captive cervids that originate in an accredited-free State or zone may be moved interstate without restriction.

§ 77.24 Modified accredited advanced States or zones.

(a) The following are modified accredited advanced States: None.

(b) The following are modified accredited advanced zones: None.

(c) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999 edition,'' which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of modified accredited advanced States or zones and its being reclassified as modified accredited.

(d) If tuberculosis is diagnosed within a modified accredited advanced State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as modified accredited.

(e) Modified accredited advanced State or zone status must be renewed annually. To qualify for renewal of a modified accredited advanced State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with all the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' regarding modified accredited advanced States. The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for accredited-free status, a modified accredited advanced State or zone must demonstrate to the Administrator that it complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication,'' has zero percent prevalence of affected captive cervid herds, and has had no findings of tuberculosis in any captive cervids in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited-free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

§ 77.25 Interstate movement from modified accredited advanced States and zones.

Captive cervids that originate in a modified accredited advanced State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The captive cervids are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) Captive cervids that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(c) If the captive cervids are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they have been classified negative to an official tuberculin test conducted within 90 days prior to the date of movement. All captive cervids so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.26 Modified accredited States or zones.

(a) The following are modified accredited States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, the Virgin Islands of the United States, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

(b) The following are modified accredited zones: A zone in Michigan delineated by starting at the juncture of State Route 55 and Interstate 75, then heading northwest and north along Interstate 75 to the Straits of Mackinac, then southeast and south along the shoreline of Michigan to the eastern terminus of State Route 55, then west along State Route 55 to Interstate 75; and a zone consisting of the remainder of Michigan.

(c) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd

test requirements contained in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition,'' which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of modified accredited States or zones and its being reclassified as accreditation preparatory.

(d) If tuberculosis is diagnosed within a modified accredited State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as accreditation preparatory.

(e) Modified accredited State or zone status must be renewed annually. To qualify for renewal of a modified accredited State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.'' The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited advanced status, a modified accredited State or zone must demonstrate to the Administrator that it complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and that tuberculosis has been prevalent in less than 0.01 percent of the total number of captive cervids in the State or zone for the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

§ 77.27 Interstate movement from modified accredited States and zones.

Except for captive cervids from a qualified herd or monitored herd, as provided in §§ 77.36 and 77.37, respectively, captive cervids that originate in a modified accredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The captive cervids are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) Captive cervids that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(c) If the captive cervids are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement. All captive cervids so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.28 Accreditation preparatory States or zones.

(a) The following are accreditation preparatory States: None. Alabama, Arkansas, Connecticut, Delaware, Illinois, Iowa, Maryland, Massachusetts, New Mexico, Ohio, Puerto Rico, Rhode Island, the Virgin Islands of the United States, and West Virginia.

(b) The following are accreditation preparatory zones: None.

(c) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition'' which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of accreditation preparatory States or zones and its being reclassified as nonaccredited.

(d) If tuberculosis is diagnosed within an accreditation preparatory State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as nonaccredited.

(e) Accreditation preparatory State or zone status must be renewed annually. To qualify for renewal of accreditation preparatory State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication.'' The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited status, an accreditation preparatory State or zone must demonstrate to the Administrator that it complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and that tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of captive cervids in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

§ 77.29 Interstate movement from accreditation preparatory States and zones.

Except for captive cervids from a qualified herd or monitored herd, as provided in §§ 77.36 and 77.37, respectively, captive cervids that

originate in an accreditation preparatory State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The captive cervids are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) Captive cervids that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that the animals to be moved have been classified negative to an official tuberculin test conducted within 90 days prior to the date of movement. All captive cervids that are so moved that are not individually identified by a registration name and number must be officially identified.

(c) If the captive cervids are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they originated in a herd that has undergone a tuberculosis herd test with negative results conducted within 1 year prior to the date of movement, and that the animals to be moved have been classified negative to two additional official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement. All captive cervids so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.30 Nonaccredited States or zones.

(a) The following are nonaccredited States: None.

(b) The following are nonaccredited zones: None.

(c) To qualify for accreditation preparatory status, a nonaccredited State or zone must demonstrate to the Administrator that it complies with the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' and that tuberculosis is prevalent in less than 0.5 percent of the total number of herds of captive cervids in the State or zone.

§ 77.31 Interstate movement from nonaccredited States and zones.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, captive cervids that originate in a nonaccredited State or zone and that are not known to be infected with or exposed to tuberculosis may not be moved interstate.

(b) If the captive cervids are from an accredited herd, they may be moved interstate if they are moved in an officially sealed means of conveyance accompanied by a certificate showing that the captive cervids are from an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that they have been classified negative to an official tuberculin test conducted within 90 days prior to the date of movement.

(c) If the captive cervids are from a qualified herd or a monitored herd, they may be moved interstate if they meet the conditions of § 77.36 for qualified herds or § 77.37 for monitored herds.

(d) Captive cervids may be moved interstate if they are accompanied by VS Form 1–27 and are moved interstate in an officially sealed means of conveyance directly to slaughter to an approved slaughtering establishment.

§ 77.32 General restrictions.

(a) Except for movement from accredited States and zones in accordance with § 77.23, movement from accredited herds in accordance with § 77.35, and movement to slaughter in accordance with §§ 77.25(a), 77.27(a), 77.29(a), and 77.31(d), no captive cervid may be moved interstate unless it has been tested using an official tuberculosis test, and it is moved in compliance with this part.

(b) No captive cervid with a response to any official tuberculosis test is eligible for interstate movement unless the captive cervid subsequently tests negative to a supplemental official tuberculosis test or is moved interstate directly to slaughter or necropsy in accordance with § 77.40.

(c) Except for captive cervids moving interstate under permit directly to slaughter or necropsy under § 77.40, each captive cervid or shipment of captive cervids to be moved interstate must be accompanied by a certificate issued within 30 days of the movement by a State or Federal animal health official or an accredited veterinarian.

(d) Captive cervids in zoological parks that have been accredited by the American Zoo and Aquarium Association (AZA) are exempt from the regulations in this part when the captive cervids are moved directly interstate between AZA member facilities. Any captive cervids moved interstate that are not moved directly from an AZA member facility to another AZA member facility must be moved in accordance with the regulations in this subpart.

§ 77.33 Testing procedures for tuberculosis in captive cervids.

(a) *Approved testers.* Except as explained in paragraphs (a)(1) and (a)(2) of this section, official tuberculosis tests may only be given by a veterinarian employed by the State in which the test is administered or by a veterinarian employed by USDA.

(1) A designated accredited veterinarian may conduct the SCT test, except as provided in § 77.34(a)(2) and § 77.39(e) and (f).

(2) Any accredited veterinarian may conduct the BTB test.

(b) *Approved diagnostic laboratories.*

(1) With one exception, histopathology and culture results for all tuberculosis diagnoses will be accepted only from the National Veterinary Services Laboratories (NVSL) in Ames, Iowa. The exception is that results will be accepted from a laboratory of the Food Safety and Inspection Service, USDA, for tissue examination of regular-kill slaughter animals in those cases where no submission is made to NVSL.

(2) The following laboratory is approved to perform the BTB test: Texas Veterinary Medical Center laboratory at Texas A&M University in College Station, Texas.

(c) Identification. Any captive cervid tested with an official tuberculosis test must bear official identification in the form of an official eartag, or another identification device or method approved by the Administrator as unique and traceable, at the time of the official tuberculosis test. Use of any identification device or method other than an official eartag must first be approved by the Administrator as unique and traceable. Written requests for approval must be sent to National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

(d) *Reporting of tests.*

(1) *SCT and CCT tests.* For the SCT and CCT tests, the testing veterinarian must submit a report to cooperating State and Federal animal health officials of the State in which the captive cervid is tested. The report must include the following information for all SCT and CCT tests administered: The number of the individual eartag or other identification approved by the Administrator; the age, sex, and breed of each captive cervid tested; a record of all responses; the size of each response for the CCT test; and the test interpretation.

(2) *BTB test.* Copies of the BTB test results must be submitted by the testing laboratory to the person, firm, or corporation responsible for the

management of the herd, cooperating State and Federal animal health officials of the State in which the captive cervid is tested, and the testing veterinarian. The report must include the following information for all BTB tests administered: The number of the individual eartag or other identification approved by the Administrator; the age, sex, and breed of each captive cervid tested; the test interpretation, and a summary of supporting data. Full supporting data must be submitted by the testing laboratory on a case-by-case basis at the request of cooperating State and Federal animal health officials.

(e) *Test interpretation.*

(1) Interpretation of an SCT test will be based upon the judgment of the testing veterinarian after observation and palpation of the injection site, in accordance with the classification requirements described in § 77.34(a).

(2) Interpretation of a CCT test will be in accordance with the classification requirements described in § 77.34(b).

(3) Interpretation of a BTB test will be in accordance with the patented standards for the BTB test [1] and the classification requirements described in § 77.34(c).

(f) *Captive cervids eligible for testing.* Except as provided in § 77.35(a)(1) and § 77.36(a)(1), testing of herds for individual herd classification must include all captive cervids 1 year of age or over and any captive cervids other than natural additions (captive cervids born into the herd) under 1 year of age.

§ 77.34 Official tuberculosis tests.

(a) *Single cervical tuberculin (SCT) test.*

(1) The SCT test is the primary test to be used in individual captive cervids and in herds of unknown tuberculous status. Each captive cervid that responds to the SCT test must be classified as a suspect until it is retested with either the CCT test or the BTB test and is either found negative for tuberculosis or is classified as a reactor; unless, with the exception of a designated accredited veterinarian, the testing veterinarian determines that the captive cervid should be classified as a reactor based on its response to the SCT test. A designated accredited veterinarian must classify a responding captive cervid as a suspect, unless the DTE determines, based on epidemiological evidence, that the captive cervid should be classified as a reactor.

(2) The SCT test is the primary test to be used in affected herds and in herds that have received captive cervids from an affected herd. When used with affected herds or in herds that have received captive cervids from an affected herd, the SCT test may only be administered by a veterinarian employed by the State in which the test is administered or employed by USDA. In affected herds or herds that have received captive cervids from an affected herd, each captive cervid that responds to the SCT test must be classified as a reactor, unless the DTE determines that the captive cervid should be classified as a suspect because of possible exposure to a tuberculous animal.

(b) *Comparative cervical tuberculin (CCT) test.*

(1) The CCT test is a supplemental test that may only be used for retesting captive cervids classified as suspects. The CCT test may be used in affected herds only after the herd has tested negative to at least two whole herd SCT tests and only with the prior written consent of the DTE. The CCT test may not be used as a primary test for herds of unknown tuberculous status.

(2) A captive cervid tested with the CCT test must be classified as negative if it has a response to the bovine PPD tuberculin that is less than 1 mm.

(3) Unless the testing veterinarian determines that the captive cervid should be classified as a reactor because of possible exposure to a tuberculous animal, a captive cervid tested with the CCT test must be classified as a suspect if:

(i) It has a response to the bovine PPD tuberculin that is greater than 2 mm and that is equal to the response to the avian PPD tuberculin; or

(ii) It has a response to the bovine PPD tuberculin that is equal to or greater than 1 mm and equal to or less than 2 mm and that is equal to or greater than the response to the avian PPD tuberculin.

(4) A captive cervid tested with the CCT test must be classified as a reactor if:

(i) It has a response to the bovine PPD tuberculin that is greater than 2 mm and that is at least 0.5 mm greater than the response to the avian PPD tuberculin; or

(ii) It has been classified as a suspect on two successive CCT tests.

(iii) Any exceptions to reactor classification under the conditions in paragraphs (b)(4)(i) and (b)(4)(ii) of this section must be justified by the testing veterinarian in writing and have the concurrence of the DTE.

(c) *Blood tuberculosis (BTB) test.*

(1) The BTB test is a supplemental test that may be used in place of the CCT test for retesting captive cervids classified as suspects.

(2) Except as provided in § 77.39(e), any captive cervid classified by the testing laboratory as ''equivocal'' will be classified as a suspect.

(3) Any captive cervid classified by the testing laboratory as ''*M.* bovis positive'' will be classified as a reactor.

(4) Any captive cervid classified by the testing laboratory as ''avian'' or ''negative'' will be considered negative for tuberculosis.

(5) The owner of the captive cervid tested is responsible for the cost of the BTB test.

§ 77.35 Interstate movement from accredited herds.

(a) *Qualifications.* To be recognized as an accredited herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.33(f) must have tested negative to at least three consecutive official tuberculosis tests, conducted at 9–15 month intervals. However, captive cervids under 1 year of age that are not natural additions to the herd do not have to be tested if they were born in and originate from an accredited herd.

(2) The owner of the herd must have a document issued by cooperating State or Federal animal health officials stating that the herd has met the requirements in paragraph (a)(1) of this section and is classified as an accredited herd.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, a captive cervid from an accredited herd may be moved interstate without further tuberculosis testing only if it is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from an accredited herd. If a group of captive cervids from an accredited herd is being moved interstate together to the same destination, all captive cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to an accredited herd except in accordance with paragraphs (c)(4) and (c)(5), and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test

[1] The patented standards for the BTB test may be obtained from the Texas Veterinary Medial Center, College of Veterinary Medicine, Texas A&M University, College Sation, TX, or from the Deer Research Laboratory, Department of Microbiology, University of Otago, P.O. Box 56, Dunedin, New Zealand.

conducted within 90 days prior to movement to the premises of the accredited herd. Any captive cervid moved from a qualified or monitored herd must also be isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other livestock during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and have been released from isolation; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must be isolated from all other members of the herd of origin and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the accredited herd. The captive cervid must also be isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other animals during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and have been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of accredited herd status.* To maintain status as an accredited herd, the herd must test negative to an official tuberculosis test within 21–27 months from the anniversary date of the third consecutive test with no evidence of tuberculosis disclosed (that is, the test on which the herd was recognized as accredited or the accrediting test). Each time the herd is tested for reaccreditation, it must be tested 21–27 months from the anniversary date of the accrediting test, not from the last date of reaccreditation (for example, if a herd is accredited on January 1 of a given year, the anniversary date will be January 1 of every second year). Accredited herd status is valid for 24 months (730 days) from the anniversary date of the accrediting test. If the herd is tested between 24 and 27 months after the anniversary date, its accredited herd status will be suspended for the interim between the anniversary date and the reaccreditation test. During the suspension period, the herd will be considered ''unclassified'' and captive cervids may be moved interstate from the herd only in accordance the movement requirements for the State or zone in which the herd is located.

§ 77.36 Interstate movement from qualified herds.

(a) *Qualifications.* To be recognized as a qualified herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.33(f) must have tested negative to one official tuberculosis test that was administered to the herd within a 7-month period. However, captive cervids under 1 year of age that are not natural additions do not have to be tested if they were born in and originate from an accredited, qualified, or monitored herd.

(2) The owner of the herd must have a document issued by cooperating State and Federal animal health officials stating that the herd has met the requirement in paragraph (a)(1) of this section and is classified as a qualified herd.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, a captive cervid from a qualified herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from a qualified herd. Except as provided in paragraphs (b)(3) and (b)(4) of this section, the certificate must also state that the captive cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of captive cervids from a qualified herd is being moved interstate together to the same destination, all captive cervids in the group may be moved under one certificate.

(3) Captive cervids under 1 year of age that are natural additions to the qualified herd or that were born in and originate from a classified herd may move without testing, provided that the certificate accompanying them states that the captive cervids are natural additions to the qualified herd or were born in and originated from a classified herd and have not been exposed to captive cervids from an unclassified herd.

(4) Captive cervids being moved interstate for the purpose of exhibition only may be moved without testing, provided they are returned to the premises of origin no more than 90 days after leaving the premises, have no contact with other livestock during movement and exhibition, and are accompanied by a certificate that includes a statement that the captive cervid is from a qualified herd and will otherwise meet the requirements of this paragraph.

(c) *Herd additions allowed.* No captive cervid may be added to a qualified herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the accredited herd;

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must be isolated from all other animals in its herd of origin and must test negative to two official tuberculosis tests prior to movement. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the qualified herd. The captive cervid must then be kept in insolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the qualified herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other livestock during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the

qualified herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of qualified herd status.* To maintain status as a qualified herd, the herd must test negative to an official tuberculosis test within 9–15 months from the anniversary date of the first test with no evidence of tuberculosis disclosed (this is the qualifying test). Each time the herd is retested for qualified status, it must be tested 9–15 months from the anniversary date of the qualifying test, not from the last date of requalification (for example, if a herd is qualified on January 1 of a given year, the anniversary date will be January 1 of each consecutive year). Qualified herd status remains in effect for 12 months (365 days) following the anniversary date of the qualifying test. Qualified herd status will be suspended between the anniversary date and the requalifying test, if the herd is not tested within 12 months. During the suspension period, the herd will be considered ''unclassified'' and captive cervids may be moved interstate from the herd only in accordance with the movement requirements for the State or zone in which the herd is located.

§ 77.37 Interstate movement from monitored herds.

(a) *Qualifications.* To be recognized as a monitored herd:

(1) Identification records must be maintained by the person, firm, or corporation responsible for the management of the herd for as long as status as a monitored herd is desired. Such records must be maintained on all captive cervids in the herd that are slaughtered, inspected, and found negative for tuberculosis at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory. Identification records may also include captive cervids from the herd that tested negative for tuberculosis in accordance with requirements for interstate movement. No less than one half of the captive cervids on which records are kept must be slaughter inspected; and

(2) A sufficient number of captive cervids in the herd must be slaughter inspected or tested for interstate movement to ensure that tuberculosis infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. [2] A maximum number of 178 captive cervids must be slaughter inspected or tested for interstate movement over a 3-year period to meet this requirement.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, a captive cervid from a monitored herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from a monitored herd. Except as provided in paragraph (b)(3) of this section, the certificate must also state that the captive cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of captive cervids from a monitored herd is being moved interstate together to the same destination, all captive cervids in the group may be moved under one certificate.

(3) Captive cervids under 1 year of age that are natural additions to the monitored herd or that were born in and originate from a classified herd may move without testing, provided that the certificate accompanying them states that the captive cervids are natural additions to the monitored herd or were born in and originated from a classified herd and have not been exposed to captive cervids from an unclassified herd.

(c) *Herd additions allowed.* No captive cervid may be added to a monitored herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the monitored herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must be isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the monitored herd. The captive cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date it arrives at the premises of the monitored herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other animals during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the monitored herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of monitored herd status.* The person, firm, or corporation responsible for the management of the herd must submit an annual report to cooperating State or Federal animal health officials prior to the anniversary date of classification. This report must give the number of captive cervids currently in the herd; the number of captive cervids from the herd 1 year of age and older identified, slaughtered, and inspected at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory during the preceding year; and the number of captive cervids that have tested negative for tuberculosis in accordance with interstate movement requirements. The number of slaughter inspections or negative testing captive cervids reported in any given year must be at least 25 percent of the total number required over a 3-year period to qualify a herd for monitored herd status. During each consecutive 3-year period, 100 percent of the qualifying total must be reported.

§ 77.38 Interstate movement from herds that are not accredited, qualified, or monitored.

The Administrator may, with the concurrence of the cooperating State animal health officials of the State of destination, and upon request in

[2] A chart showing the number of captive cervids that must be slaughter inspected or tested for interstate movement, depending on the size of a heard, to meet this requirement may be obtained from the National Animal Health Program staff, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

specific cases, permit the movement of captive cervids not otherwise provided for in this part which have not been classified as reactors and are not otherwise known to be affected with tuberculosis, under such conditions as the Administrator may prescribe in each specific case to prevent the spread of tuberculosis. The Administrator shall promptly notify the appropriate cooperating State animal health officials of the State of destination of any such action.

§ 77.39 Other interstate movements.

(a) *Herds containing a suspect*

(1) *The suspect.*

(i) A captive cervid classified as a suspect on the SCT test must be quarantined until it is slaughtered or retested by the CCT test or the BTB test and found negative for tuberculosis. Retesting must be as follows:

(A) The first CCT test must be administered within the first 10 days following the SCT test or, if not, must be administered at least 90 days after the SCT test. If the CCT test is administered within 10 days of the SCT test, the injection must be on the side of the neck opposite the injection for the SCT test.

(B) The sample for the first BTB test may not be taken until at least 12 days after the injection for the SCT test. It is recommended that the sample be taken within 30 days following the injection for the SCT test.

(ii) A captive cervid classified as a suspect on the first CCT test or the first BTB test must be quarantined until the following has occurred:

(A) A suspect on the first CCT test is tested with a second CCT test at least 90 days after the first CCT test and is found negative for tuberculosis; or

(B) A suspect on the first BTB test is tested with a second BTB test and is found negative for tuberculosis. It is recommended that the captive cervid be tested with the second BTB test within 60 days following the injection for the SCT test.

(2) *The remainder of the herd.* Any herd containing a suspect to an official tuberculosis test must be quarantined until the suspect is retested by the CCT test or the BTB test and found negative for tuberculosis, or the suspect is inspected at slaughter or necropsied and found negative for tuberculosis after histopathology and culture of selected tissues. If the suspect is found negative for tuberculosis upon testing, or after slaughter inspection or necropsy and histopathology and culture of selected tissues, the herd may be released from quarantine and will return to the herd classification status in effect before the herd was quarantined. If the suspect is classified as a reactor upon testing, or after slaughter inspection or necropsy and histopathology and/or culture of selected tissues, the herd may be released from quarantine only in accordance with paragraph (b) of this section for herds containing a reactor.

(b) *Herds containing a reactor.* The following requirements apply to herds containing a reactor, except for herds that have received captive cervids from an affected herd. Herds that have received captive cervids from an affected herd must be quarantined and tested in accordance with paragraph (e) of this section.

(1) *The reactor.* Captive cervids classified as reactors must be quarantined.

(2) *The remainder of the herd.* Any herd containing reactors must be quarantined until the reactors are slaughtered or necropsied in accordance with § 77.40 and:

(i) If upon slaughter inspection or necropsy any reactors exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* the remainder of the herd may be released from quarantine in accordance with the provisions of paragraph (c) of this section.

(ii) If *M. bovis* is isolated from any reactors, the remainder of the herd will be considered an affected herd, and will be subject to the provisions for affected herds in paragraph (d) of this section.

(iii) If upon slaughter inspection or necropsy all reactors exhibit no gross lesions (NGL) of tuberculosis and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on specimens taken from the NGL animals, the remainder of the herd may be released from quarantine, and captive cervids from the herd may be moved interstate in accordance with the herd classification status in effect before the herd was quarantined if one of the following conditions is met:

(A) The remainder of the herd is given a whole herd test and is found negative for tuberculosis.

(B) The remainder of the herd is given a whole herd test, and all reactors to the whole herd test exhibit no gross lesions (NGL) of tuberculosis upon slaughter inspection or necropsy and no evidence of tuberculosis infection is found by histopathology or culture of *M. bovis* on specimens taken from the NGL animals.

(iv) If no evidence of tuberculosis is found in any reactor upon slaughter inspection or necropsy, but it is not possible to conduct a whole herd test on the remainder of the herd, the herd will be evaluated, based on criteria such as the testing history of the herd and the State history of tuberculosis infection, by the DTE to determine whether the herd may be released from quarantine.

(c) *Herds found to have only lesions of tuberculosis.* A herd in which captive cervids with lesions compatible with or suggestive of tuberculosis are found by histopathology without the isolation of *M. bovis* may be released from quarantine and return to the herd classification status in effect before the herd was quarantined, with the concurrence of the DTE, if the herd tests negative to tuberculosis on a whole herd test conducted 90 days following the removal of the lesioned captive cervid, provided the herd has not been exposed to *M. bovis* during the 90 days. To maintain its herd classification status, the herd must test negative to two annual whole herd tests beginning 10–12 months after the herd is released from quarantine. If any captive cervids in the herd respond to one of the tests, the herd will be subject to the provisions of paragraph (a) or (b) of this section. If the herd is not given the two annual whole herd tests, it will become an unclassified herd.

(d) *Affected herds.* A herd determined to be an affected herd must be quarantined until the herd has tested negative to three whole herd tests in succession, with the first test given 90 days or more after the last test yielding a reactor and the last two tests given at intervals of not less than 180 days. If the herd tests negative to the three whole herd tests, it will be released from quarantine, but will be considered an unclassified herd, and captive cervids may only be moved interstate from the herd in accordance with the movement requirements for the State or zone in which the herd is located. In addition, the herd must be given five consecutive annual whole herd tests after release from quarantine. (These five tests will count toward qualifying the herd for herd classification.) As an alternative to testing, the herd may be depopulated.

(e) *Herds that have received captive cervids from an affected herd.* If a herd has received captive cervids from an affected herd, the captive cervids from the affected herd of origin will be considered exposed to tuberculosis. The exposed captive cervids and the receiving herd must be quarantined. The exposed captive cervids must be slaughtered, necropsied, or tested with the SCT test by a veterinarian employed by the State in which the test is administered or employed by USDA. The BTB test may be used simultaneously with the SCT test as an additional diagnostic test. Any exposed captive cervid that responds to the SCT

test or tests ''*M. bovis* positive'' or ''equivocal'' on the BTB test must be classified as a reactor and must be slaughter inspected or necropsied. Any exposed captive cervid that tests negative to the SCT test or tests ''avian'' or ''negative'' on the BTB test will be considered as part of the affected herd of origin for purposes of testing, quarantine, and the five annual whole herd tests required for affected herds in paragraph (d) of this section.

(1) If bovine tuberculosis is confirmed in any of the exposed captive cervids by bacterial isolation of *M. bovis,* the receiving herd will be classified as an affected herd and will be subject to the provisions for affected herds in paragraph (d) of this section.

(2) If any of the exposed captive cervids are found to exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* the receiving herd will be subject to appropriate testing as determined by the DTE.

(3) If all the exposed captive cervids test negative for tuberculosis, the receiving herd will be released from quarantine if it is given a whole herd test and is found negative for tuberculosis and will return to the herd classification in effect before the herd was quarantined. In addition, the receiving herd must be retested with the SCT test 1 year after release from quarantine in order for captive cervids from the herd to continue to be moved interstate. Supplemental diagnostic tests may be used if any captive cervids in the herd show a response to the SCT test.

(f) *Source herds.* A herd suspected of being the source of tuberculous captive cervids based on a slaughter traceback investigation must be quarantined upon notification (by the person conducting the investigation) to the USDA Area Veterinarian in Charge for the State in which the herd resides, and a herd test must be scheduled. If the herd is suspected of being the source of slaughter captive cervids having lesions of tuberculosis, the herd test must be done by a veterinarian employed by the State in which the test is administered or employed by USDA.

(1) If the herd is identified as the source of captive cervids having lesions of tuberculosis and *M. bovis* has been confirmed by bacterial isolation from the slaughter animal, all captive cervids in the herd that respond to the SCT test must be classified as reactors. If none respond to the SCT test, the herd may be released from quarantine and will return to the herd classification status in effect before the herd was quarantined, unless the DTE judges that additional testing is appropriate to ensure the herd's freedom from tuberculosis.

(2) If the herd is identified as the source of captive cervids that exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* all captive cervids in the herd that respond to the SCT test must be classified as suspects, and supplemental tests must be applied.

(3) If the herd is not identified as the source herd, the herd will be released from quarantine if the herd is given a whole herd test and is found negative for tuberculosis. The herd will then return to the herd classification status in effect before the herd was quarantined.

(g) *Newly assembled herds.*

(1) A newly assembled herd will be classified as having the herd status of the herd from which the captive cervids originated. If the herd is assembled from captive cervids from more than one herd, it will be classified as having the herd status of the originating herd with the lowest status. A newly assembled herd will also assume the testing schedule of the herd status it is given. Captive cervids in the herd must have no exposure to captive cervids from a herd of lesser status than the herd of origin determining the status of the newly assembled herd or to any tuberculous livestock.

(2) A herd newly assembled on premises where a tuberculous herd has been depopulated must be given two consecutive annual whole herd tests. The first test must be administered at least 6 months after the assembly of the new herd. If the whole herd tests are not conducted within the indicated time frame, the herd will be quarantined. If the herd tests negative to the two whole herd tests, there are no further requirements. If any captive cervid in the herd responds on one of the whole herd tests, the herd will be subject to the provisions of paragraph (a) or (b) of this section. If the premises has been vacant for more than 1 year preceding the assembly of the new herd on the premises, these requirements may be waived if the risk of tuberculosis transmission to the newly assembled herd is deemed negligible by cooperating State and Federal animal health officials.

§ 77.40 Procedures for and interstate movement to necropsy and slaughter.

(a) *Procedures for necropsy and slaughter.*

(1) A necropsy must be performed by or under the supervision of a veterinarian who is employed by USDA or employed by the State in which the captive cervid was classified, and who is trained in tuberculosis necropsy procedures.

(2) If, upon necropsy, a captive cervid is found without evidence of *M. bovis* infection by histopathology and culture, the captive cervid will be considered negative for tuberculosis.

(3) Reactors, suspects, and exposed captive cervids may be slaughtered only at an approved slaughtering establishment, as defined in § 77.20.

(b) *Interstate movement to necropsy or slaughter.*

(1) *Permit.* Any reactor, suspect, or exposed captive cervid to be moved interstate to necropsy or slaughter must be accompanied by a permit issued by a representative of APHIS, a State representative, or an accredited veterinarian. The captive cervid must remain on the premises where it was identified as a reactor, suspect, or exposed captive cervid until a permit for its movement is obtained. No stopover or diversion from the destination listed on the permit is allowed. If a change in destination becomes necessary, a new permit must be obtained from a cooperating State or Federal animal health official or an accredited veterinarian before the interstate movement begins. The permit must list:

(i) The classification of the captive cervid (reactor, suspect, or exposed);

(ii) The reactor eartag number or, for suspects and exposed captive cervids, the official eartag or other approved identification number;

(iii) The owner's name and address;

(iv) The origin and destination of the captive cervids;

(v) The number of captive cervids covered by the permit; and

(vi) The purpose of the movement.

(2) *Identification of reactors.* Reactors must be tagged with an official eartag attached to the left ear and bearing a serial number and the inscription ''U.S. Reactor,'' and either:

(i) Branded with the letter ''T'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Permanently identified by the letters ''TB'' tattooed legibly in the left ear, sprayed on the left ear with yellow paint, and either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(3) *Identification of exposed captive cervids.* Exposed captive cervids must be identified by an official eartag or other approved identification and either:

(i) Branded with the letter ''S'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

§ 77.41 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering captive cervids in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous or reactor livestock must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey, hold, or in any way come in contact with any livestock.

Done in Washington, DC, this 28th day of February 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–5165 Filed 3–6–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–ANE–56–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D 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 Pratt & Whitney JT9D series turbofan engines. This proposal would require initial and repetitive detailed eddy current inspections for cracks in 1st stage high pressure turbine (HPT) disks, and, if necessary, replacement with serviceable parts. This proposal is prompted by the finding of a crack in the web of one cooling air hole on a 1st stage HPT disk. The actions specified by the proposed AD are intended to prevent 1st stage HPT disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by May 8, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-ANE–56-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.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 0610; telephone 860–565–8770, fax 860–565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7134, fax 781–238–7199.

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 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–ANE–56–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–ANE–56–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received a report of a cracked 1st stage high pressure turbine (HPT) disk installed on a Pratt & Whitney (PW) Model JT9D–7R4E turbofan engine. The crack was found during a routine maintenance inspection. The investigation revealed a 4-inch radial crack on the HPT 1st stage disk progressing through the web of one cooling air hole. The subject disk was returned to PW for investigation. Eddy current inspection (ECI) and fluorescent penetrant inspection (FPI) of the disk revealed axial indications on the surface of one 0.313–0.323 inch diameter cooling air hole surface that progressed completely through the web. Further examination revealed a severely worked layer extending to a maximum depth of 0.006 inch from the surface of the hole. No other cooling air hole exhibited cracks. This condition, if not corrected, could result in 1st stage HPT disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

Service Information

The FAA has reviewed and approved the technical contents of PW Alert Service Bulletin (ASB) JT9D–7R4–A72–563, and ASB JT9D A6367, both dated July 28, 1999, that describe procedures for detailed ECI of 1st stage HPT disks for cracks.

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 initial and repetitive detailed ECI for cracks in 1st stage HPT disks, and, if necessary, replacement with serviceable parts. The actions would be required to be accomplished in accordance with the ASB described previously.

Economic Analysis

There are approximately 330 engines of the affected design in the worldwide fleet. The FAA estimates that 220 engines installed on aircraft of US registry would be affected by this proposed AD, that it would take approximately 4.5 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 $165,000 per engine. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $36,359,400.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order No. 13132, because it would not have a substantial direct effect 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order No. 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:

Pratt & Whitney: Docket No. 99–ANE–56–AD.

Applicability: Pratt & Whitney (PW) JT9D–7R4D, –7R4D1, –7R4E, –7R4E1 (AI–500), –7, –7A, –7AH, –7H, –7F, and –20 series turbofan engines, installed on but not limited to Boeing 747 and 767 series, McDonnell Douglas DC–10 series, and Airbus Industrie A300 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent 1st stage high pressure turbine (HPT) disk cracking, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

JT9D Series

(a) For PW JT9D–7, –7A, –7AH, –7H, –7F, and –20 series turbofan engines, with 1st stage HPT disks, part numbers (P/Ns) 761401, 811401, 823401, 825601, 826001, and 826301:

Initial Inspection

(1) Perform the initial detailed eddy current inspection (ECI) for cracks in accordance with the Accomplishment Instructions of PW Alert Service Bulletin (ASB) No. JT9D A6367, dated July 28, 1999.

(2) Inspect at the following compliance times, depending on whether parts have had prior fluorescent penetrant inspections (FPI) or not.

Initial Compliance Times

No Prior FPI

(3) The following are the initial compliance times for parts that have had no prior FPI:

(i) For disks with more than 8,000 total part cycles-since-new (CSN) on the effective date of this AD, inspect within 250 cycles-in-service (CIS) after the effective date of this AD.

(ii) For disks with at least 6,000 CSN though no more than 8,000 total part CSN on the effective date of this AD, inspect within 1,000 CIS after the effective date of this AD.

(iii) For disks with at least 4,000 CSN though no more than 5,999 total part CSN on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(iv) For disks with less than 4,000 total part CSN on the effective date of this AD, inspect prior to accumulating 6,000 total part CSN.

Prior FPI Accomplished

(4) The following are the initial compliance times for parts that have had a previous FPI:

(i) For disks with more than 8,000 CIS since last FPI on the effective date of this AD, inspect within 250 CIS after the effective date of this AD.

(ii) For disks with at least 6,000 CSN though no more than 8,000 CIS since last FPI on the effective date of this AD, inspect within 1,000 CIS after the effective date of this AD.

(iii) For disks with at least 4,000 CSN though no more than 5,999 CIS since last FPI on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(iv) For disks with less than 4,000 CIS since last FPI on the effective date of this AD, inspect prior to accumulating 6,000 CIS since last FPI on the effective date of this AD.

Repetitive Inspections

(5) Thereafter, perform detailed ECI for cracks:

(i) At intervals not to exceed 6,000 CIS since last ECI.

(ii) Inspect in accordance with the Accomplishment Instructions of PW ASB No. JT9D A6367, dated July 28, 1999.

Cracked Disks

(6) Prior to further flight, replace cracked disks with serviceable parts.

JT9D–7R4 Series

(b) For PW JT9D–7R4D, –7R4D1, –7R4E, and –7R4E1 (AI–500) series turbofan engines, with 1st stage HPT disks, P/N 825601:

Initial Inspection

(1) Perform the initial detailed ECI for cracks in accordance with the Accomplishment Instructions of PW ASB No. JT9D–7R4–A72–563, dated July 28, 1999.

(2) Inspect at the following compliance times, depending on whether parts have had prior FPI or not.

Initial Compliance Times

No Prior FPI

(3) The following are the initial compliance times for parts that have had no prior FPI:

(i) For disks with more than 10,000 total part CSN on the effective date of this AD, inspect within 250 CIS after the effective date of this AD.

(ii) For disks with at least 8,000 CSN though no more than 10,000 total part CSN on the effective date of this AD, inspect within 1,000 CIS after the effective date of this AD.

(iii) For disks with at least 6,000 CSN though no more than 7,999 total part CSN on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(iv) For disks with less than 6,000 total part CSN on the effective date of this AD, inspect prior to accumulating 8,000 total part CSN.

Prior FPI Accomplished

(4) The following are the initial compliance times for parts that have had a previous FPI:

(i) For disks with more than 10,000 CIS since last FPI on the effective date of this AD, inspect within 250 CIS after the effective date of this AD.

(ii) For disks with at least 8,000 CSN though no more than 10,000 CIS since last FPI on the effective date of this AD, inspect within 1,000 CIS after the effective date of this AD.

(iii) For disks with at least 6,000 CSN though no more than 7,999 CIS since last FPI on the effective date of this AD, inspect within 2,000 CIS after the effective date of this AD.

(iv) For disks with less than 6,000 CIS since last FPI on the effective date of this AD, inspect prior to accumulating 8,000 CIS since last FPI on the effective date of this AD.

Repetitive Inspections

(5) Thereafter, perform detailed ECI for cracks:

(i) At intervals not to exceed 8,000 CIS since last ECI.

(ii) Inspect in accordance with the Accomplishment Instructions of PW ASB No. JT9D–7R4-A72–563, dated July 28, 1999.

Cracked Disks

(6) Prior to further flight, replace cracked disks with serviceable parts.

Alternative Methods of Compliance

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

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

Ferry Flights

(d) 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 aircraft to a location where the inspection requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on February 23, 2000.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate Aircraft Certification Service.

[FR Doc. 00–5011 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–ANE–10–AD]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TFE731–2, –3, –4, and –5 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This notice revises an earlier proposed airworthiness directive (AD), applicable to Honeywell International, Inc.(formerly AlliedSignal Inc. and Garret Turbine Engine Company) high pressure compressor (HPC) impellers installed on TFE731–2, –3, –4, and –5 series turbofan engines. That proposal would have required replacing the HPC impeller with a serviceable impeller that has been eddy-current inspected or with a serviceable impeller of certain part numbers as a terminating action. That proposal was prompted by an incident of an uncontained impeller failure due to cracking in the seal relief area of the HPC impeller. This action revises the proposed rule by eliminating the terminating action and adding those impeller PN's to the suspect impeller population. This action would also clarify certain portions of the proposed AD based on comments that were received from the public. The actions specified by this proposed AD are intended to prevent HPC impeller failure due to fatigue cracking.

DATES: Comments must be received by May 8, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–ANE–10–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.

The service information referenced in the proposed rule may be obtained from Honeywell Engines and Systems (formerly AlliedSignal) Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial), fax (602) 365–5577 (General Aviation), (602) 365–2832 (Commercial). This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone 562–627–5246, fax 562–627–5210.

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–ANE–10–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

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–ANE–10–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR

part 39) to add an airworthiness directive (AD), applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Company) high pressure compressor (HPC) impellers installed on TFE731–2, –3, –4, and –5 series turbofan engines, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on July 28, 1999 (64 FR 40789). That NPRM would have required replacing the HPC impeller with a serviceable impeller, which has been eddy-current inspected, at the next core zone inspection (CZI) or at the next access to the HPC module, and repetitive inspections at each subsequent CZI or each subsequent access to the HPC impeller for cause if the impeller has more than 1,000 cycles since the last eddy current inspection (ECI). That NPRM was prompted by a Federal Aviation Administration (FAA) determination that on May 10, 1998, a high pressure compressor (HPC) impeller, part number (P/N) 3073394–1, separated and exited from a TFE731–3R–1D turbofan engine. This impeller had accumulated 9,080 engine cycles since new (CSN) and 5,829 engine cycles since rework of the seal relief area in November, 1982, performed in accordance with Garrett Turbine Engine Company Service Bulletin (SB) TFE731–72–3239 RWK. Fracture analysis revealed a subsurface primary origin in the area of the seal relief and that the crack propagated through the bore for about 1.0 inch. No melt or forging related discrepancies were found at the fatigue origin; however, localized alpha grain colonies with an unfavorable fracture plane orientation were present. Recent low-temperature fatigue testing with a sustained peak hold time (dwell) at higher than engine-operating stresses indicate that normal cyclic fatigue lives may be influenced by dwell times and an unfavorable titanium macrostructure. The FAA has determined that low-cycle fatigue (LCF) cracking in high stressed areas of the HPC impeller may lead to an uncontained impeller separation. That condition, if not corrected, could result in an HPC impeller failure due to fatigue cracking.

Changes to This NPRM

Since that NPRM was published in the **Federal Register**, the FAA has received a number of comments that change the requirements of the original NPRM and the population of applicable HPC impellers was increased. The nature and extent of those changes were such that FAA has determined that a supplemental NPRM (SNPRM) should be issued.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of AlliedSignal Inc. Alert Service Bulletin (ASB) TFE731–A72–3641, dated November 24, 1998, that describes procedures for removing, inspecting, and, if necessary, replacing HPC impellers, P/N's 3073393–1, 3073394–1, 3073433–1, 3073434–1 with serviceable impellers. The FAA has subsequently reviewed and approved ASB TFE731–A72–3641, Revision 1, dated October 20, 1999, that adds P/N's 3073398–All (where All denotes all dash numbers), 3073435–All, and 3075171–All.

Proposed Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent failure of the HPC impeller due to fatigue cracks. This AD requires removing and inspecting the HPC impeller, and if necessary, replacing the HPC impeller with a serviceable impeller. The removal and inspection will be conducted at the next CZI or at the next access to the HPC module, and repetitive inspections at each subsequent CZI or each subsequent access to the HPC module if the impeller has more than 1,000 cycles since the last ECI. These removals, inspections, and replacements must be done in accordance with the ASB described previously.

Comments About the Original NPRM

Since the issuance of that NPRM, the FAA has received the following four comments:

Request To Eliminate the Terminating Action Paragraph

The manufacturer comments that paragraph (d) of the proposal should be deleted and recommends adding those HPC impellers identified as constituting terminating action to the applicability of the AD. During further investigation, all HPC impeller designs were found to be at risk of fatigue cracking from the same cause, and, therefore, warrant the proposed ECI. The FAA agrees. Paragraph (d) has been deleted from this supplemental NPRM (SNPRM) and HPC impellers P/N's 3073398–All, 3073435–All, and 3075171–All have been added to the applicability of the AD. At present, therefore, the proposal does not offer any terminating action to the required inspections. The FAA may undertake further rulemaking to terminate the ECI requirement.

Replace vs. Inspect

The manufacturer also requests that proposed paragraphs (a) and (b) be reworded to state that operators must inspect the HPC impellers rather than replace the HPC impellers. The manufacturer believes that the use of the word replace may imply that operators must replace the HPC impeller with a new impeller at each time an inspection is required. The FAA agrees in part. As stated in the NPRM, only Honeywell International or persons trained by Honeywell International are properly equipped and qualified to perform this specialized ECI. The Service Bulletin directs operators to remove the HPC impeller and ship the impeller to a facility that can perform the inspection.

Using the words remove and inspect more accurately describe the actions the FAA is requiring of operators. The FAA has added a provision to both paragraphs (a) and (b), however, that operators must remove and inspect, and if necessary replace, applicable HPC impellers with ''serviceable'' impellers, and added a new paragraph (d) that defines ''serviceable'' as an impeller which complies with all applicable visual, dimensional, and fluorescent penetrant inspections requirements for the level of maintenance being accomplished, as contained in the Heavy Maintenance Manual and is either an impeller with fewer than 1000 engine operation cycles since new or an impeller with less than 1000 engine operation cycles since last ECI.

Request To Change Note 2 of the NPRM

The manufacturer suggests that the words ''Introduction of'' should be deleted from proposed Note 2 following proposed paragraph (d). The FAA has already deleted paragraph (d) in response to the manufacturer's earlier comment, and therefore Note 2 has also been deleted in its entirety.

Request To Change the Unsafe Condition Statement

The manufacturer believes that the unsafe condition statements in the preamble and text of the NPRM that describes the intent of the AD should be changed. The commenter states that the AD does not prevent fatigue cracking of the HPC impeller, but rather is intended to detect fatigue cracking of the impeller. The FAA agrees in part. The unsafe condition identified as the underlying justification for this AD is failure of the HPC impeller due to fatigue cracking. The actions required by the AD are not intended to prevent the HPC from cracking, but to prevent the HPC impeller from failing, which

could result in an uncontained engine failure, and damage to the airplane. Therefore, the preamble and text of this SNPRM has been changed to read that the AD is issued to prevent HPC impeller failure due to fatigue cracking.

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

There are approximately 7510 engines of the affected design in the worldwide fleet. The FAA estimates that 5482 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The FAA also estimates that some of the impellers will be replaced, and that the impeller will cost about $45,000. Based on these figures, the FAA estimates the total cost impact of the proposed AD on U.S. operators for the next four years to be $2,201,760.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order (EO) 13132.

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:

Honeywell International Inc. TFE731–2, –3, –4, and –5 Series Turbofan Engines: Docket No. 99–ANE–10–AD.

Applicability: Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Company) TFE731–2, –3, –4, and –5 series turbofan engines with high pressure compressor (HPC) impeller part numbers (P/N's) 3073393–1, 3073394–1, 3073433–1, 3073434–1, 3073398–All (where All denotes all dash numbers), 3073435–All, and 3075171–All, installed on, but not limited to, Avions Marcel Dassault—Breguet Aviation (AMD/BA) Falcon 10, Dassault Aviation Mystere—Falcon 50, and 900 series airplanes; Dassault Aviation Mystere—Falcon 20 series airplanes, Learjet Inc. Models 31, 35, 36, and 55 series airplanes; Lockheed-Georgia Corporation 1329–23 and –25 series airplanes; Israel Aircraft Industries Ltd. 1124 series and 1125 Westwind series airplanes; Cessna Aircraft Co. Model 650 Citation III, VI, and VII series airplanes; Raytheon Aircraft Co. HS–125 series airplanes; and Sabreliner Corporation NA–265–65 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the high pressure compressor impeller due to fatigue cracking, accomplish the following:

(a) Remove and inspect the applicable HPC impeller in accordance with Section 2.A. of the Accomplishment Instructions of AlliedSignal Inc. Alert Service Bulletin (ASB) TFE731–A72–3641, Revision 1, dated October 20, 1999, or ASB TFE731–A72–3641 dated November 24, 1998, and if necessary, replace the impeller with a serviceable impeller, at the earlier of the following:

(1) At the next core zone inspection (CZI) after the effective date of this AD, or

(2) At the next access to the HPC module after the effective date of this AD.

(b) Thereafter, remove and inspect the applicable HPC impeller in accordance with Section 2.A. of the Accomplishment Instructions of ASB TFE731—A72–3641 dated November 24, 1998, or ASB TFE731–A72–3641, Revision 1, dated October 20, 1999, and if necessary, replace the impeller with a serviceable impeller, whenever either of the following conditions are met:

(1) At every CZI, or

(2) At access to the HPC module if the impeller has accumulated more than 1,000 cycles since the last Eddy Current Inspection (ECI).

(c) This AD defines access to the HPC module as whenever the low pressure compressor case is removed from the compressor interstage diffuser.

(d) For the purposes of this AD, a serviceable impeller is defined as an impeller which complies with all applicable visual, dimensional, and fluorescent penetrant inspections requirements for the level of maintenance being accomplished, as contained in the Heavy Maintenance Manual and is either an impeller with fewer than 1000 engine operation cycles since new or an impeller with less than 1000 engine operation cycles since last ECI.

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

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

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

Issued in Burlington, Massachusetts, on March 1, 2000.

Diane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–5460 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 307

Request for Comments Concerning Regulations Implementing the Comprehensive Smokeless Tobacco Health Education Act of 1986

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (the ''Commission'') is

requesting public comment on its regulations (''smokeless tobacco regulations'' or ''the regulations'') implementing the Comprehensive Smokeless Tobacco Health Education Act of 1986 (''Smokeless Tobacco Act''). The regulations set forth the manner in which smokeless tobacco manufacturers, importers, and packagers must display and rotate the three health warnings mandated by the Smokeless Tobacco Act. As part of its systematic review of all current Commission regulations and guides, the Commission is requesting comments about the overall costs and benefits of the regulations and their overall regulatory and economic impact. The Commission is also requesting comment on whether the regulations adequately implement the format and display requirements of the Smokeless Tobacco Act and for comment on several other issues relating to specific provisions of the regulations. All interested parties are hereby given notice of the opportunity to submit written data, views and arguments concerning the rule.

DATES: Comments must be submitted on or before April 24, 2000.

ADDRESSES: Written comments should be identified as ''16 CFR Part 307'' and sent to the Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, N.W., Washington DC 20680. The Commission requests that the original comment be filed with five copies, if feasible. The Commission also requests, if possible, that the comments be submitted in electronic form on a computer disc. (Programs based on DOS or Windows are preferred. Files from other operating system should be submitted in ASCII test format.) The disc label should identify the commenter's name and the name and version of the word processing program used to create the document.

Alternatively, the Commission will accept comments submitted to the following E–Mail address: ''SMOKELESS@ftc.gov''.

All comments will be placed on the public record and will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. § 552, and the Commission's Rules of Practice, 16 CFR 4.11, during normal business days from 8:30 a.m. to 5:00 p.m., at the Public Reference Room, Room H–130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington DC 20580. In addition, comment will be placed on the Internet at the FTC web site: http://www.ftc.gov.

FOR FURTHER INFORMATION CONTACT: Rosemary Rosso (202) 326–3076, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, E–Mail (for questions or information only): rrosso@ftc.gov.

SUPPLEMENTARY INFORMATION: The current request for comments on the smokeless tobacco regulations is part of the Commission's regulatory review program, which has been implemented to review regulations and guides periodically. The regulatory review program seeks information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained will assist the Commission in identifying rules and guides that warrant modification or rescission.

Simultaneous with the regulatory review, the Commission is also seeking public comments on whether the regulations adequately implement the format and display requirements of the Smokeless Tobacco Act and for comment on several other issues relating to specific provisions of the regulations.

A. Background Information

The Smokeless Tobacco Act was promulgated by Congress on February 27, 1986. The Act requires manufacturers, importers and packagers of smokeless tobacco products to display on a rotating basis one of the following healthy warning labels on product packages and in most advertisements:

WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER

WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS

WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES

For packaging, the Act directs that these health warnings appear in a conspicuous and prominent place on the package and in a conspicuous format that is in conspicuous and legible type in contrast with all other printed material. For advertising, the Act directs that the warnings be displayed in a circle-and-arrow format in a conspicuous and prominent place and in conspicuous, legible type in contrast to all other printed materials.

The Act also directs the Commission to issue implementing regulations governing the format and display of the statutory health warnings on packaging and in most advertising for smokeless tobacco products.

On November 4, 1986, the Commission promulgated regulations specifying requirements as to the size, color, typeface, placement and rotation of those warnings, 51 FR 40015. For the most part, these provisions are set out as safe harbor provisions that state formats or displays that will be deemed to be in conformance with the Smokeless Tobacco Act rather than in terms of displays or formats that are required to conform. The Commission's regulations require manufacturers, importers and packagers to submit to the Commission for approval their plans for complying with the requirements for the display and periodic rotation of the three warnings.

The Commission amended its smokeless tobacco regulations on March 20, 1991, 56 FR 11662.[1] The 1991 amendments added a requirement for display of the warnings on ''utilitarian items,'' that is items other than smokeless tobacco that are sold or given to consumers for their personal use that display the name, logo, or selling message of any smokeless tobacco product.[2]

B. Issues for Comment

The Commission is currently conducting a periodic review of the smokeless tobacco regulations as part of its periodic review of all current Commission rules and guides. Accordingly, the Commission is requesting comments about the overall costs and benefits of the regulations and their overall regulatory and economic impact.

In addition, the Commission is seeking public comment on the adequacy of the smokeless tobacco regulations in implementing the format and display provisions of the Smokeless Tobacco Act.

1. Effectiveness of the Warning Requirements

For labels, the regulations currently require that the warnings be displayed in a conspicuous and prominent place on the label and provide examples of

[1] The sections of the regulations that deal with technical requirements for rotation of the warnings also were amended several times, including on January 15, 1993, 58 FR 4874, and on August 30, 1996, 61 FR 45886.

In addition, the Commission currently has pending a rulemaking to determine whether it should amend its regulations to require rotational health warnings on sponsored racing vehicles and other event-related objects that display the brand name, logo or selling message of smokeless tobacco products. That rulemaking is on hold while Commission staff evaluate regulatory and industry changes that have taken place since this proceeding commenced.

[2] The regulations as originally promulgated by the Commission contained an exemption for utilitarian items. Subsequent litigation required the Commission to delete the exemption. *Public Citizen* v. *FTC*, 688 F. Supp. 667 (D.D.C. 1988), aff'd, 869 F.2d (D.C. Cir. 1989).

places on the label of different types of smokeless tobacco packages that will be deemed to be conspicuous and prominent. For advertising, the regulations currently require that the statutorily mandated circle-and-arrow warnings be in conspicuous and legible type in contrast with all other printed material and must appear in all capital letters in a circle-and-arrow format. The regulations provide examples of display formats that will be deemed to conform to these requirements.

The Commission is interested in public comment on the effectiveness of the existing regulations in meeting the statutory format and display requirements. In particular, the Commission would like to receive comment on any consumer research, studies or other data bearing on the effectiveness of the warning requirements.

2. Enforceability of the Warning Requirements

Many of the substantive provisions of the regulations are stated in terms of safe harbors, or displays that will be deemed to be in conformance with the Smokeless Tobacco Act, rather than as specific mandatory requirements. The Commission is seeking public comment on whether this safe harbor approach is sufficiently enforceable. In particular, the Commission is interested in public comment as to whether the safe harbor approach should be abandoned and if so, the costs and benefits of changing to an alternative approach.

3. Smokeless Tobacco Dispensers

Under the regulations as currently drafted, rectangular dispensers of individual packages of smokeless tobacco can display the label warning on any side of its packaging, provided that the dispenser can be sold in its entirety and the warning is the only printed or graphic matter on the side of the package where it appears. 16 CFR 307.6(a). It has recently come to the Commission's attention that this provision is being used to justify placement of the label warning on the back of dispensers commonly used as displays for the retail sale of individual packages of smokeless tobacco products. In this location, the warnings are not visible to the viewing public.

Accordingly, the Commission is seeking comment as to whether this provision of the Regulations should be revised to provide that any dispenser of individual smokeless tobacco packages that can be used as a retail display carry the label warning on its principal display panel.

4. Can Rolls

Section 307.6(b) of the regulations currently provides that can rolls wrapped for sale as a single unit display a warning in 12-point type if the warnings on the individual cans in the roll are not completely visible. The warnings on the individual cans typically would be in 7½ point type under the current regulations. One manufacturer has taken the position that the larger 12-point type requirement does not apply to can rolls consisting of only two cans. The Commission is interested in public comment on whether this provision should be amended to make it clear that the provision for a larger warning applies to any can roll consisting of two or more cans that are wrapped for sale as one unit if the warnings on the individual cans are not completely visible.

C. Request for Comments

At this time, the Commission is seeking comment on various aspects of the smokeless tobacco regulations in conjunction with its regulatory review. Without limiting the scope of issues it is seeking comment on, the Commission is particularly interested in receiving comments on the questions that follow. Where commenters advocate changes to the regulations, please be specific in describing suggested changes. With respect to suggested changes to the regulations, please describe any potential costs and benefits such changes might have on industry and consumers. The Commission would also be interested in commenters providing any consumer research, studies or data that exist on issues raised in the questions.

1. Is there a continuing need for the regulations as currently promulgated?

(a) Since the regulations were issued, have changes in technology, industry structure or economic conditions affected the need for or effectiveness of the regulations?

(b) Do the regulations include provisions that are unnecessary?

(c) What are the aggregate costs or benefits of the regulations?

(d) Have the costs or benefits of the regulations dissipated over time?

2. What effect, if any, have the regulations had on smokeless tobacco purchasers, potential purchasers or the general public?

(a) What benefits have the regulations provided to smokeless tobacco purchasers, potential purchasers or the general public?

(b) What economic or other costs have the regulations imposed on smokeless tobacco purchasers, potential purchasers or the general public?

(c) What changes, if any, should be made to the regulations to increase the benefits to smokeless tobacco purchasers, potential purchasers or the general public?

(d) How would these changes affect the compliance costs the regulations impose on industry?

3. What impact, if any, have the regulations had on firms that must comply with it?

(a) What economic or other costs have the regulations imposed on industry or individual firms?

(b) What benefits have the regulations provided to the industry or to individual firms?

(c) What changes, if any, should be made to the regulations to minimize any burden or cost imposed on industry or individual firms?

(d) How would the changes affect the benefits provided by the regulations to smokeless tobacco purchasers, potential purchasers, the general public or industry?

4. Do the regulations overlap or conflict with any federal, state or local laws or regulations?

5. What significant burdens or costs, including costs of compliance, have the regulations imposed on small firms subject to their requirements?

(a) How do these burdens or costs differ from those imposed on larger firms subject to the regulations' requirements?

(b) What changes, if any, should be made to the regulations to reduce the burdens or costs imposed on small firms?

(c) How would these changes affect the benefits of the regulations?

(d) Would such changes adversely affect the competitive position of larger firms?

Section 307.6 Requirements for Disclosure on the Label

6. If the regulations are retained, are the size, color, typeface, or placement requirements sufficiently conspicuous and prominent within the meaning of section 3(b)(1) of the Smokeless Tobacco Act, 15 USC 4402(b)(1)? What evidence is there to show that the existing label disclosure requirements are or are not conspicuous or prominent or otherwise effective or ineffective?

Sections 307.7, 307.8 and 307.9 Requirements for Disclosure in Advertising

7. If the regulations are retained, are the size, color, typeface, or placement requirements sufficiently conspicuous and prominent within the meaning of section 3(b)(2) of the Smokeless Tobacco Act, 15 USC 4402(b)(2)? What evidence

is there to show that the existing advertising disclosure requirements are or are not conspicuous or prominent or otherwise effective or ineffective?

Enforceability of the Regulations

8. Many of the substantive provisions of the regulations are stated in terms of safe harbors, or displays that will be deemed to be in conformance with the Smokeless Tobacco Act, rather than as specific mandatory requirements. Are the regulations in this form sufficiently enforceable? Does this make it more difficult to prove that displays that do not conform to the safe harbors are not sufficiently conspicuous to conform to the requirements of the Smokeless Tobacco Act? Should the safe harbor approach be abandoned?

Smokeless Tobacco Dispensers

9. Should the regulations be revised to provide that any dispenser of individual smokeless tobacco packages that can be used as a retail display carry the advertising warning on its principal display panel?

Can Rolls

10. Should the regulations be amended to provide that a can roll of individual smokeless tobacco packages can consist of as few as two cans?

11. Are there any other provisions of the regulations that need to be amended? If so, which provisions require change and how should they be changed?

12. What is the likely effect of any changes in the regulations suggested in response to questions 6 through 11 on costs, profitability, competitiveness, or employment in small business entities?

13. The Smokeless Tobacco Act requires that smokeless tobacco companies submit plans to the Commission specifying the method they will use to rotate, display, and distribute the required health warnings on their packaging and advertising. Making changes suggested in the regulations in response to questions 6 through 11 may require the smokeless tobacco companies to amend their plans for the display and rotation of the warning statements. What paperwork or other burdens would be imposed by any changes suggested in response to questions 6 through 11?

List of Subjects in 16 CFR Part 307

Health warnings, Smokeless tobacco, Trade practices.

Authority: 15 U.S.C. 1401–1410.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–5506 Filed 3–6–00; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 312

Children's Online Privacy Protection Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed ''Safe Harbor'' Guidelines and Request for Public Comment.

SUMMARY: The Federal Trade Commission publishes this notice and request for public comment concerning proposed self-regulatory guidelines under the safe harbor provision of the Children's Online Privacy Protection Rule, 16 CFR 312.10(a).

DATES: Written comments must be submitted on or before April 6, 2000. Comments will be posted on the Commission's website: *http://www.ftc.gov.*

ADDRESSES: Written comments should be submitted to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The Commission requests that commenters submit the original plus five copies, if feasible. To enable prompt review and public access, comments also should be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a disk label stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII text format.) Alternatively, the Commission will accept comments submitted to the following e-mail address, *safeharbor@ftc.gov.* Individual members of the public filing comments need not submit multiple copies or comments in electronic form. All submissions should be captioned: ''PrivacyBot.com Safe Harbor Proposal—Comment, P004504.''

FOR FURTHER INFORMATION CONTACT: Loren G. Thompson, (202) 326–2049, Abbe Goldstein, (202) 326–3423, or Elizabeth Delaney, (202) 326–2903, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 601 Pennsylvania Ave., NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

On October 20, 1999, the Commission issued its final Rule pursuant to the Children's Online Privacy Protection Act, 15 U.S.C. 6501 et seq.[1] The Rule requires certain website operators to post privacy policies, provide notice, and obtain parental consent prior to collecting certain personal information from children. The Rule contains a ''safe harbor'' provision enabling industry groups or others to submit self-regulatory guidelines that would implement the protections of the Rule to the Commission for approval.[2]

Pursuant to § 312.10 of the Rule, PrivacyBot.com has submitted proposed self-regulatory guidelines to the Commission for approval. The full text of the proposed guidelines is available on the Commission's website, *www.ftc.gov.*

Section B. Questions on the Proposed Guidelines

The Commission is seeking comment on various aspects of the proposed guidelines, and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. Responses to these questions should cite the numbers and subsection of the questions being answered. For all comments submitted, please provide any relevant data, statistics, or any other evidence, upon which those comments are based.

1. Please provide comment on any or all of the provisions in the proposed guidelines. For each provision commented on please describe (a) the impact of the provision(s) (including any benefits and costs), if any, and (b) what alternatives, if any, PrivacyBot.com should consider, as well as the costs and benefits of those alternatives.

2. Do the provisions of the proposed guidelines governing operators' information practices provide ''the same or greater protection for children'' as those contained in §§ 312.2–312.8 of the Children's Online Privacy Protection Rule? Where possible, please cite the relevant sections of both the Rule and the proposed guidelines.

3. Are the mechanisms used to assess operators' compliance with the guidelines effective? *See* Rule § 312.10(b)(2).[3] If not, please describe (a) how the proposed guidelines could be

[1] 64 FR 59888 (Nov. 3, 1999).

[2] *See* 16 CFR 312.10; 64 FR at 59906–59908; 59915.

[3] 64 FR at 59915.

modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.

4. Are the incentives for operators' compliance with the guidelines effective? *See* Rule § 312.10(b)(3).[4] If not, please describe (a) how the proposed guidelines could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.

5. Do the guidelines provide adequate means for resolving consumer complaints? If not, please describe (a) how the proposed guidelines could be modified to resolve consumer complaints adequately, and (b) the costs and benefits of those modifications.

6. Please comment on the effectiveness of automation in the proposed guidelines and describe other means or mechanisms, if any, PrivacyBot.com should consider for its safe harbor program.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–5505 Filed 3–6–00; 8:45 am]

BILLING CODE 6750—01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–777]

RIN 1218–AB36

Ergonomics Program

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Proposed rule; procedures for informal public hearing; rescheduling of informal public hearing; additional information and clarifications.

SUMMARY: OSHA is setting hearing and post-hearing procedures for its proposed Ergonomics Program standard published in the **Federal Register** on November 23, 1999. These procedures, which are provided as an alternative to the procedures the Agency usually uses, address: the hearing schedule, the nature of the hearing, availability of hearing testimony, the conduct of the rulemaking hearing, and post-hearing submissions. OSHA is issuing these procedures to ensure that the hearings proceed in a fair, orderly, and timely manner even though a very large number of parties have filed notices of intent to appear at them. This document will enable the hearing participants to plan their activities in advance. This document also specifies the dates and locations of the hearings.

DATES: The hearing will begin on Monday, March 13, 2000, in Washington, D.C. The hearing in Washington will run for 4 weeks through April 7. The hearing will resume on April 11, in Chicago, Illinois, and will continue there until April 21. The hearing will then resume in Portland, Oregon on April 24 and run until May 3. The final week of the hearing will be May 8 through 12 at a location to be determined in Washington, D.C. The hearing will begin at 9:30 a.m. on March 13; on subsequent days, the starting time will be 8:30 a.m. The hearing will ordinarily conclude by 6:00 p.m. each day; however, in order to assure orderly development of the record on any particular day, the Administrative Law Judge may extend the hearing that day. All questioning of public participants will be completed on the day the participants testify.

ADDRESSES: The March 13 through April 7 hearing in Washington will be in the Frances Perkins Building Auditorium in the U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. The hearing in Chicago will be held at the State of Illinois Building, James R. Thompson Center (Assembly Hall), 100 W. Randolph Street, in Chicago, Illinois. The hearing in Portland will be held at the Mark Hatfield Federal Court House, Courtroom #16, 1000 Southwest 3rd Avenue, in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: OSHA's Ergonomics Team at (202) 693–2116, or visit the OSHA Homepage at www.osha.gov.

SUPPLEMENTARY INFORMATION: The procedures for the hearings on the Ergonomics Program Standard follow:

Hearing and Post-Hearing Procedures

I. General Information

1. *Authority.* The following procedures will be utilized in the public hearing on OSHA's proposed Ergonomics Program Standard (64 FR 65768; 65 FR 4795). OSHA rulemaking hearings are conducted in accord with Section 6(b)(3) of the OSH Act, 29 U.S.C. 655(b)(3), and the Secretary of Labor's procedural regulations in 29 CFR Part 1911. As noted in the Proposal, 64 FR 66065–66066, § 1911.4 allows the Assistant Secretary, upon reasonable notice, to specify additional or alternative procedures for good cause.

This document provides notice that the Assistant Secretary is exercising that authority in this case. In light of the very large number of parties who have filed notices of intent to appear at the hearings, the Assistant Secretary finds that good cause exists to establish additional procedures in advance to assure that the hearing proceeds in a fair, orderly, and timely manner.

2. *Hearing Dates.* As stated in the **Federal Register** document of February 1, 2000 (65 FR 4795), the hearing will begin on Monday, March 13, 2000 in the Frances Perkins Building Auditorium in the U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC. The hearing in Washington will run for 4 weeks through April 7. The hearing will resume on April 11 at the State of Illinois Building, James R. Thompson Center (Assembly Hall), 100 W. Randolph Street, in Chicago, Illinois, and will continue there until April 21. The hearing will then resume at the Mark Hatfield Federal Court House, Courtroom #16, 1000 Southwest 3rd Avenue, in Portland, Oregon on April 24 and run until May 3. The final week of the hearing will be May 8 through 12 at a location to be determined in Washington, DC. The hearing will begin at 9:30 a.m. on March 13; on subsequent days, the starting time will be 8:30 a.m. The hearing will ordinarily conclude by 6:00 p.m. each day; however, in order to assure orderly development of the record on any particular day, the Administrative Law Judge may extend the hearing that day. All questioning of public participants will be completed on the day the participants testify.

3. *Nature of Hearing.* This OSHA rulemaking hearing is a legislative-type hearing, not an adjudicative one. It is an informal administrative proceeding, intended for information gathering and clarification. This informal hearing is an adjunct to the written comment period, and is intended to provide interested persons with an additional opportunity to address the Agency and provide testimony and evidence for the rulemaking record. These procedural rules governing the hearing are intended to facilitate the development of a clear, accurate and complete record, while assuring fairness and due process. The rules of evidence and other procedural rules governing adjudications do not apply. Participants who have filed Notices of Intention to Appear may testify and question witnesses in accordance with these procedures (see Section II), but may not issue subpoenas or call to testify any person other than the persons who have agreed to testify for them. Motions to strike evidence will not be considered. The intent is to provide an opportunity for effective oral presentation by interested persons, and

[4] *Id.*

to avoid procedures which might unduly impede or protract the rulemaking process. 29 CFR 1911.15(c)(3).

4. Availability of Hearing Testimony. The February 1, 2000, **Federal Register** document provided that participants submitting documentary evidence or requesting more than 10 minutes for their presentations must submit their evidence and the full text of their written testimony to the docket postmarked no later than March 2, 2000 (65 FR 4795). The materials submitted have been or will be entered into the rulemaking docket (S–777) in the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, where they are available for inspection and copying. This affords all participants an opportunity to review the evidence and to formulate in advance questions they may wish to ask at the hearing.

II. Conduct of the Rulemaking Hearing

1. Schedule for Testimony. The Assistant Secretary has established a schedule showing the location and date each participant will testify and be available for questions. A copy of the schedule has been provided to all participants who have filed a notice of intent to appear and is posted on OSHA's Web site (www.osha.gov). Each witness should plan to be present at the start of the day he or she is scheduled to testify. No individual witness will be allowed to present testimony in more than one location, although individuals appearing in a representative capacity may represent participants appearing at different locations. The schedule prescribes the amount of time for each participant to testify, and also allows time for other participants and OSHA representatives to question the witness. The Administrative Law Judge shall assure that the hearing proceeds in a fair and orderly manner so as to facilitate development of the record. Consistent adherence to the schedule will also allow advance planning by participants, many of whom are traveling from a considerable distance to testify.

2. OSHA Witnesses. The first witnesses at the Washington hearing on Monday March 13 will be a panel of OSHA representatives. Following the panel's presentation, participants who have filed notices of intent to appear and who wish to question the panel will be given the opportunity to do so. Initially each questioner will be given a 10 minute question period. The judge may adjust this, however, so long as the questioning is completed by March 14. The judge may allow participants additional question periods if there is time remaining after all participants have had an initial opportunity to question the panel members. The OSHA panel will testify only in Washington, and will be available for questioning only on March 13 and 14.

OSHA's expert witnesses and a panel of witnesses from NIOSH will testify and be questioned March 15 through March 21. Following each panel, participants will be allowed a period of time, as noted in the schedule, to question panel members. The Administrative Law Judge may allow additional questioning so long as the testimony and questioning of each panel is completed on the day it is scheduled.

3. Public Witnesses. Participants who have filed timely notices of intention to appear in Washington, DC, are scheduled to make their presentations and be questioned beginning March 21.

4. General. Written hearing testimony that is submitted before the hearing is already part of the rulemaking record, and participants who have submitted written testimony in advance will not be permitted to read that testimony at the hearing. Instead, they should use their oral presentation to summarize and clarify their written submissions. Participants may provide additional copies of their testimony for the convenience of other hearing participants.

Participants who have filed Notices of Intention to Appear but have not substantially complied with the requirements for the submission of written testimony and documentary evidence will be allowed a maximum time of 10 minutes for their presentations at the hearing and will be expected to respond to questions following their presentations. If time permits, the Administrative Law Judge may allow persons who have not filed Notices of Intention to Appear an opportunity to testify at the close of the day.

5. Questioning of Public Witnesses. Participants who have filed Notices of Intention to Appear may ask questions on relevant issues following a presentation. Representatives of OSHA may also question witnesses. The Administrative Law Judge shall allocate the time allowed in the schedule among questioners. The judge may adjust this time so long as the testimony and questioning of all witnesses scheduled for each day is completed that day.

Questions must be as brief as possible and must be designed to clarify a presentation or elicit information that is within the competence or expertise of the witness. Participants may not ask questions that are outside the scope of the matters addressed by this rulemaking.

The Administrative Law Judge shall not permit duplicative, argumentative, or irrelevant questions. Questioners will not be permitted to use the question periods to present their own testimony and views on issues.

Participants having similar interests are encouraged to designate one representative who can conduct the questioning on their behalf. When an organization is represented by more than one person, only one person from that organization may question each witness or panel.

After all questioners have had an opportunity to question a witness or panel, if a questioner still has important relevant questions that have not been asked, the questioner may request permission from the Administrative Law Judge to ask additional questions. Permission may be granted based on the time available and the witness schedule.

III. Post-Hearing Submissions

At the close of the hearing, those participants who have filed Notices of Intention to appear will have the opportunity to file additional evidence and data relevant to the proceeding, and to file final written briefs. Additional information and data relevant to the proceeding must be postmarked within 45 days of the close of the hearing; briefs must be postmarked 90 days after the close of the hearing. No reply briefs are to be filed.

At the close of the post-hearing comment period, the hearing record will be closed and certified by the Administrative Law Judge to the Assistant Secretary of Labor for Occupational Safety and Health.

Authority: This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U. S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. It is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 1st day of March, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 00–5422 Filed 3–6–00; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–149–FOR]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana submitted revised procedural rules for adjudicatory proceedings. Indiana intends to revise its program to be consistent with the corresponding Federal regulations. This document gives the times and locations that the Indiana program and amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., e.s.t., April 6, 2000. If requested, we will hold a public hearing on the amendment on April 3, 2000. We will accept requests to speak at the hearing until 4 p.m., e.s.t. on March 22, 2000.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

You may review copies of the Indiana program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700.

Indiana Department of Natural Resources, Bureau of Mine Reclamation, 402 West Washington Street, Room W–295, Indianapolis, Indiana 46204, Telephone: (317) 232–1291.

Indiana Department of Natural Resources, Division of Reclamation, R.R. 2, Box 129, Jasonville, Indiana 47438–9517, Telephone: (812) 665–2207.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office. Telephone: (317) 226–6700. Internet: INFOMAIL@indgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, and 914.16.

II. Description of the Proposed Amendment

On February 4, 2000, the Indiana Department of Natural Resources (department), Division of Reclamation (DoR), sent us a copy of revised procedural rules for adjudicatory proceedings (Administrative Record No. IND–1685). These rules are codified in the Indiana Administrative Code (IAC) at 312 IAC 3–1 and provide procedures for administrative review proceedings held before the Natural Resources Commission (commission) and its administrative law judges. We previously approved Indiana's procedural rules at 310 IAC 0.6–1 for adjudicatory proceedings under its program. In 1996, Indiana repealed the procedural rules at 310 IAC 0.6–1 and revised and recodified their substantive requirements at 312 IAC 3–1. The DoR submitted the revised procedural rules in response to a required program amendment that we codified at 30 CFR 914.16(ff) on October 20, 1994 (59 FR 52906). Below is a discussion of that portion of the revised rules that pertain to administrative review under the Indiana program.

1. 312 IAC 3–1–1 Administration

Subsection (a) specifies that 312 IAC 3–1 controls proceedings governed by Indiana Code (IC) 4–21.5, Administrative Orders and Procedures, for which the commission, or an administrative law judge for the commission, is the ultimate authority.

Subsection (b) allows an affected person to apply for administrative review under IC 4–21.5 and 312 IAC 3–1 if he or she is aggrieved by a determination of the director or a delegate of the director.

Subsection (c) defines ''division director'' as the director of the division of hearings of the commission.

2. 312 IAC 3–1–2 Ultimate Authority

Subsection (a) designates the commission as the ultimate authority for the department except as provided in subsection (b).

Subsection (b) designates an administrative law judge as the ultimate authority for an administrative review under: (1) An order under Indiana's Surface Coal Mining and Reclamation Act at IC 14–34, except for a proceeding concerning the approval or disapproval of a permit application or permit renewal under IC 14–34–4–13 or for suspension or revocation of a permit under IC 14–34–15–7; (2) An order granting or denying temporary relief under IC 14–34 or an order voiding, terminating, modifying, staying, or continuing an emergency or temporary order under IC 4–21.5–4; and (3) An order designated as a final order in 312 IAC 3–1–9.

3. 312 IAC 3–1–3 Initiation of a Proceeding for Administrative Review

Subsection (a) provides that a proceeding before the commission under IC 4–21.5 is initiated when one of the following is filed with the Division of Hearings: (1) a petition for review under IC 4–21.5–3–7; (2) a complaint under IC 4–21.5–3–8; (3) a request for temporary relief under IC 14–34; (4) a request to issue or for review of an issued emergency or other temporary order under IC 4–21.5–4; (5) an answer to an order to show cause under 312 IAC 3–1–5; or (6) a referral by the director of a petition for and challenge to litigation expenses under 312 IAC 3–1–13(g).

Subsection (b) requires the division director to appoint an administrative law judge to conduct the proceeding as soon as practicable after the initiation of administrative review under subsection (a).

4. 312 IAC 3–1–4 Answers and Affirmative Defenses

Subsection (a) specifies that except as provided in subsection (b) and in 312 IAC 3–1–5 and 13, the matters contained in a pleading described in 312 IAC 3–1–3(a) are considered automatically denied by any other party.

Subsection (b) provides that a party wishing to assert an affirmative defense,

counterclaim, or cross-claim must do so, in writing, and have the document filed and served no later than the initial prehearing conference, unless otherwise ordered by the administrative law judge.

5. 312 IAC 3–1–5 Pleadings for and Disposing of a Show Cause Order Issued Under the Indiana Surface Mining Control and Reclamation Act

Subsection (a) provides that 312 IAC 3–1–5 governs the suspension or revocation of a permit under IC 14–34–15–7.

Subsection (b) requires the director (or a delegate of the director) to issue, to the permittee, an order of permit suspension or revocation under IC 14–34–15–7 if the director determines that a permit issued under to IC 13–4.1, IC 14–34, or 310 IAC 12 should be suspended or revoked. The order of permit suspension or revocation must state that: (1) a pattern of violations of IC 13–4.1, IC 14–34, 310 IAC 12, or any permit condition required by IC 13–4.1, IC 14–34, or 310 IAC 12 exists; and (2) the violations are either willfully caused by the permittee, or caused by the permittee's unwarranted failure to comply with IC 13–4.1, IC 14–34, 310 IAC 12, or any permit condition required by IC 13–4.1, IC 14–34, or 310 IAC 12. Subsection (b) further provides that, for the purposes of this subsection, the unwarranted failure of the permittee to pay any fee required under IC 13–4.1, IC 14–34, or 310 IAC 12 constitutes a pattern of violations and requires the issuance of an order of permit suspension or revocation.

Subsection (c) requires the director to serve by certified mail or personal delivery an order of permit suspension or revocation. Subsection (c) also clarifies that an order of permit suspension or revocation is governed by IC 4–21.5–3–6.

Subsection (d) requires a permittee, who wants to contest an order of permit suspension or revocation, to file a petition for review under IC 4–21.5–3–7 within thirty (30) days of his or her receipt of the order of permit suspension or revocation. Subsection (d) also specifies the kind of information that must be included in a petition for review, including whether the permittee wants a hearing on the order of permit suspension or revocation.

Subsection (e) provides that if a petition for review is not filed by the permittee under subsection (d), the order of permit suspension or revocation will become an effective and final order of the commission without a proceeding under IC 14–34–15–7(c).

Subsection (f) provides that if a petition for review is filed by the permittee under subsection (d) and a hearing on the order is sought by the permittee, the matter will be assigned to an administrative law judge for a proceeding under IC 4–21.5–3. Subsection (f) also sets out the burden of proof standards for the hearing. The director has the burden of going forward with evidence demonstrating that the permit in question should be suspended or revoked. The director satisfies the burden by establishing a prima facie case that a pattern of violations exists or has existed and the violations were willfully caused by the permittee or caused by the unwarranted failure of the permittee to comply with any requirements of IC 13–4.1, IC 14–34, 310 IAC 12, or any permit conditions required under IC 13–4.1, IC 14–34, or 310 IAC 12. If the director demonstrates that the permit should be suspended or revoked, the permittee has the ultimate burden of persuasion to show cause why the permit should not be suspended or revoked. A permittee may not challenge the fact of any violation that is the subject of a final order of the director.

Subsection (g) provides that the administrative law judge will issue a nonfinal order if he or she determines that a pattern of violations exists or has existed. In this nonfinal order, the administrative law judge must consider the factors contained in 310 IAC 12–6–6.5. The administrative law judge must find that sufficient violations occurred to establish a pattern. The nonfinal order must comply with the requirements of IC 4–21.5–3–27(a) through IC 4–21.5–3–27(d) and IC 4–21.5–3–27(g). The administrative law judge may, at any time before the conclusion of the hearing, allow the parties to submit briefs and proposed findings.

Subsection (h) requires the administrative law judge to submit the nonfinal order to the commission within ten days following the date that the hearing is closed or within ten days of the receipt of the permittee's petition for review submitted under subsection (d) if no hearing is requested by any party and it is determined that no hearing is necessary.

Subsection (i) provides that a party must object to the findings and nonfinal order in writing in order to preserve for judicial review an objection to the nonfinal order of an administrative law judge. In its written objection, a party must identify the bases of the objection. The objection must be filed with the commission within 15 days after the findings and nonfinal order are served on the party.

Subsection (j) requires the commission to enter a final order affirming, modifying, or vacating the administrative law judge's order of permit suspension or revocation. The final order of the commission must be entered within 45 days following the issuance of the nonfinal order. The final order of the commission must be issued 60 days following the date that the hearing record is closed by the administrative law judge or 60 days following the administrative law judge's receipt of the permittee's petition for review filed under subsection (d) if no hearing was requested by any party and the administrative law judge determined that no hearing was necessary.

Subsection (k) provides that the minimum suspension period is 3 working days unless the commission finds that imposition of the minimum suspension period would result in manifest injustice and would not further the purposes of IC 13–4.1, IC 14–34, 310 IAC 12, or any permit condition required by IC 13–4.1, IC 14–34, or 310 IAC 12. The commission may impose preconditions that the permittee must satisfy before the suspension is lifted.

Subsection (l) requires the commission to serve the parties with a copy of the final order. A party may then apply for judicial review under IC 4–21.5.

6. 312 IAC 3–1–6 Amendment of Pleadings

Subsection (a) provides for the amendment of petitions for administrative review filed under IC 4–21.5–3–7. The various types of petitions that may to be amended are described in 312 IAC 3–1–3(a). A pleading may be amended once as a matter of course before a response is filed, but not later than the initial prehearing conference or 15 days before a hearing, unless otherwise allowed by the administrative law judge.

Subsection (b) specifies the circumstances under which amendments in a pleading relate back to the date of the original pleading.

7. 312 IAC 3–1–7 Filing and Service of Documents

Subsection (a) requires documents to be filed with the administrative law judge and served on all other parties.

Subsection (b) allows the filing of a document to be performed by personal delivery, first class mail, certified mail, interoffice mail, fax, or electronic mail.

Subsection (c) requires service of a document to be made upon the attorney or other authorized representative when a party is represented by an attorney or another authorized representative. If a

party is not represented by others, service must be made upon the individual.

Subsection (d) provides that filing or service by properly addressed, prepaid first class or certified mail is complete upon deposit in the United States mail. Filing or service by another method is complete upon receipt.

Subsection (e) specifies that 312 IAC 3–1–7 does not modify the time in which a party may file objections under IC 4–21.5–3–29 or a petition for judicial review under IC 4–21.5–5.

8. 312 IAC 3–1–8 Administrative Law Judge; Automatic Change

Subsection (a) provides that an automatic change of administrative law judge may be obtained under 312 IAC 3–1–8.

Subsection (b) provides that a party may file a written motion for change of the administrative law judge without specifically stating the ground for the request. A party must file the motion within ten days after the appointment of an administrative law judge.

Subsection (c) requires the administrative law judge to grant the motion filed under subsection (b) and to notify the division director. The division director must inform the parties of the names of two other individuals from whom a substitute administrative law judge may be selected. A party who is opposed to the party who filed the motion under subsection (b) may, within five days, select one of the individuals named by the division director to serve as the substitute administrative law judge. The division director must select a new administrative law judge if the opposing party does not make a timely selection.

Subsection (d) specifies under what circumstances an automatic change of administrative law judges under this section does not apply. This section does not apply where a previous change of administrative law judge has been requested under this section. It does not apply to a proceeding under IC 4–21.5–4 or to temporary relief under IC 13–4.1. It does not apply if an administrative law judge has issued a stay or entered an order for disposition of all or a portion of the proceeding. Finally it does not apply if the commission orders a suspension of the section because of inadequate staffing.

9. 312 IAC 3–1–9 Defaults, Dismissals, and Agreed Orders

Subsection (a) allows an administrative law judge to enter a final order of dismissal if the party who initiated administrative review requests the proceeding be dismissed.

Subsection (b) allows an administrative law judge, on the motion of the administrative law judge or the motion of a party, to enter a proposed order of default or proposed order of dismissal under IC 4–21.5–3–24, if at least one of the following applies: (1) A party fails to attend or participate in a prehearing conference, hearing, or other stage of the proceeding; (2) The party responsible for taking action does not take action on a matter for a period of at least 60 days; (3) The person seeking administrative review does not qualify for review under IC 4–21.5–3–7; or (4) A default or dismissal could be entered in a civil action.

Subsection (c) allows a party to file a written motion requesting the order not be imposed. The party must file the motion within seven days after service of a proposed order of default or dismissal, or within a longer period allowed by the proposed order. The administrative law judge may adjourn the proceedings or conduct them without participation of the party against whom a proposed default order was issued within the same time period. The administrative law judge must consider the interest of justice and the orderly and prompt conduct of the proceeding before taking either action.

Subsection (d) requires the administrative law judge to issue an order of default or dismissal if the party fails to file a written motion under subsection (c). If the party has filed a written motion under subsection (c), the administrative law judge may either enter or refuse to enter an order of default or dismissal.

Subsection (e) requires the administrative law judge, after issuing an order of default, but before issuing a final order or disposition, to conduct any action necessary to complete the proceeding without the participation of the party in default and determine all issues in the adjudication, including those affecting the defaulting party. The administrative law judge may conduct proceedings under IC 4–21.5–3–23 to resolve any issue of fact.

Subsection (f) requires an administrative law judge to approve an agreed order entered into by the parties if it is clear and concise and lawful.

Subsection (g) allows the secretary of the commission to affirm the entry of an agreed order approved by the administrative law judge under subsection (f).

Subsection (h) provides that a final order entered under this section is made with prejudice unless otherwise specified in the order. A person may seek judicial review of the order under IC 4–21.5–5.

10. 312 IAC 3–1–10 Applicability of Rules of Trial Procedure and Rules of Evidence

Section 10 allows the administrative law judge to apply the Indiana Rules of Trial Procedure or the Indiana Rules of Evidence as long as they are not inconsistent with IC 4–21.5 or 312 IAC 3–1.

11. 312 IAC 3–1–11 Conduct of Hearing; Separation of Witnesses

Subsection (a) requires an administrative law judge to govern the conduct of a hearing and the order of proof.

Subsection (b) requires the administrative law judge to provide for a separation of witnesses on a motion by a party before the commencement of testimony.

12. 312 IAC 3–1–12 Nonfinal Order of the Administrative Law Judge; Oral Argument Before the Commission; Participation by Nonparties (Amicus Curiae); Disposition by the Secretary of State If No Objection Filed

Subsection (a) provides that 312 IAC 3–1–12 governs the disposition of objections under IC 4–21.5–3–29.

Subsection (b) requires a party who wishes to contest whether objections provide reasonable particularity, to move, in writing, for a more definite statement. The administrative law judge may rule upon a motion filed under this subsection, and any other motion filed subsequent to the entry of the nonfinal order, and enter an appropriate order (including removal of an item from the commission agenda).

Subsection (c) requires that parties schedule objections for argument before the commission simultaneously with the presentation by the administrative law judge of findings, conclusions, and a nonfinal order. Unless otherwise ordered by the commission, argument must not exceed 10 minutes for each party and 20 minutes for each side.

Subsection (d) allows a nonparty to file a brief with the commission ten days before oral argument is scheduled on objections filed under subsection (c). A copy of the brief must be served upon each party. The brief must not be more than five pages long and cannot include evidentiary matters outside the record. Unless otherwise ordered by the commission, a nonparty may also present oral argument for not more than five minutes in support of the brief. If more than one nonparty files a brief, the administrative law judge must order the consolidation of briefs if reasonably necessary to avoid injustice to a party. A nonparty who has not filed a brief at

least ten days before oral argument is first scheduled on objections may participate in the argument upon the stipulation of the parties.

Subsection (e) requires the commission to provide the services of a stenographer or court reporter to record the argument upon the written request of a party. This request must be filed at least 48 hours before an oral argument to consider objections.

Subsection (f) allows the secretary of the commission, as its designee under IC 4–21.5–3–28(b), to affirm the findings and nonfinal order. The secretary has exclusive jurisdiction to affirm, remand, or submit to the commission for final action, any findings and nonfinal order subject to this subsection. No oral argument will be conducted under this subsection unless ordered by the secretary.

Subsection (g) allows a party to move to strike all or any part of objections, a brief by a nonparty, or another pleading under 312 IAC 3–1–12. The administrative law judge must act upon a motion filed under this subsection by providing relief which is consistent with IC 4–21.5 and 312 IAC 3–1.

13. 312 IAC 3–1–13 Awards of Litigation Expenses for Specified Proceedings

Subsection (a) provides that 312 IAC 3–1–13 governs an award of costs and expenses reasonably incurred, including attorney fees, under IC 14–34–15–10.

Subsections (b) and (c) do not pertain to the Indiana program.

Subsection (d) provides that appropriate costs and expenses, including attorney fees, may be awarded under IC 14–34–15–10 in five instances. First, litigation expenses may be awarded to any person from the permittee. However, the person must initiate or participate in an administrative proceeding reviewing enforcement and a finding must be made by the administrative law judge or commission that a violation of IC 14–34, a rule adopted under IC 14–34, or a permit issued under IC 14–34 has occurred or that an imminent hazard existed and the person made a substantial contribution to the full and fair determination of the issues. However, a contribution of a person who did not initiate a proceeding must be separate and distinct from the contribution made by a person initiating the proceeding. Second, litigation expenses may be awarded to a person from the department, other than to a permittee or the permittee's authorized representative, who initiates or participates in a proceeding. The person must prevail in whole or in part, achieving at least some degree of success on the merits. A finding must also be made indicating that the person made a substantial contribution to a full and fair determination of the issues. Third, litigation expenses may be awarded to a permittee from the department if the permittee demonstrates that the department issued a cessation order, a notice of violation, or an order to show cause why a permit should not be suspended or revoked in bad faith and for the purpose of harassing or embarrassing the permittee. Fourth, litigation expenses may be awarded to a permittee from a person, where the permittee demonstrates that the person initiated a proceeding under IC 14–34–15 or participated in the proceeding in bad faith for the purpose of harassing or embarrassing the permittee. Finally, litigation expenses may be awarded to the department from a person, where the department demonstrates that the person sought administrative review or participated in a proceeding in bad faith and for the purpose of harassing or embarrassing the department.

Subsection (e) allows the commission to order a person requesting a hearing to pay the cost of the court reporter if the person requesting the hearing fails, after proper notice, to appear at the hearing.

Subsection (f) specifies the factors that the commission must consider in determining what is a reasonable amount of attorney fees. The factors include: (1) The nature and difficulty of the proceeding; (2) The time, skill, and effort involved; (3) The fee customarily charged for similar legal services; (4) The amount involved in the proceeding; and (5) The time limitations imposed by the circumstances. For a party whose attorney is a full-time, salaried employee of the party, consideration also must be given to the prorated cost of the salary of the attorney and of the clerical or paralegal employees of the party who assisted the attorney. The employees' benefits attributable to the time devoted to representation must also be considered.

Subsection (g) requires a party who wishes to seek litigation expenses to petition the director within 30 days after the party receives notice of the final agency action. A party wishing to challenge the petition for an award must deliver a written response to the director within 15 days of service of the petition for an award. If a petition for seeking litigation expenses and challenge of the petition for award are delivered to the director under this subsection, the director must refer the matter to the division of hearings of the commission for the conduct of a proceeding under IC 4–21.5.

14. 312 IAC 3–1–14 Court reporter; Transcripts

Subsection (a) requires the commission to employ and engage the services of a stenographer or court reporter, either on a full-time or a part-time basis, to record evidence taken during a hearing.

Subsection (b) allows a party to obtain a transcript of the evidence by submitting a written request to the administrative law judge.

Subsection (c) requires the party who requests a transcript under subsection (b) to pay the cost of the transcript.

Subsection (d) provides that, upon a written request by a party filed at least 48 hours before a hearing, a court reporter who is not an employee of the commission will be engaged to record a hearing.

15. 312 IAC 3–1–15 Quasi-Declaratory Judgments

Subsection (a) allows a person to request the department to interpret a statute or rule administered by the department as applicable to a specific factual circumstance. The request must be in writing and must describe with reasonable particularity all relevant facts. The request must cite with specificity the statutory or rule sections in issue. The request must identify any other person who may be affected by a determination of the request. Finally the request must describe the relief sought.

Subsection (b) allows the director or the director's delegate to provide a written response to the request. The written response must be provided within 45 days of the request. The response may include an interpretation based upon the information provided in the request or may specify additional information needed to respond to the request. If the department needs additional information, it has an additional 45 days in which to respond.

Subsection (c) provides that if the department does not respond within the periods described in subsection (b), a general denial of the request is deemed to have resulted.

Subsection (d) allows the person who is seeking the request under subsection (a) to file a petition for administrative review under IC 4–21.5–3 if he or she is aggrieved by the response of the department under subsection (b) or a general denial under subsection (c). The department's response constitutes a determination of status under IC 4–21.5–3–5(a)(5).

Subsection (e) provides that 312 IAC 3–1–15 does not excuse a person from

a requirement to exhaust another administrative remedy provided by statute or rule. A person may not void or modify a final order entered by the department in another proceeding. A request does not extend any time limitation imposed on the availability of another administrative remedy. A final order of the department under this section, which follows a contested proceeding under IC 4–21.5–3, provides the same precedent as a final order following any other contested proceeding under IC 4–21.5–3.

16. 312 IAC 3–1–16 Continuances

Subsection (a) provides that upon the motion of a party, a hearing may be continued by the administrative law judge and shall be continued upon a showing of good cause.

Subsection (b) requires a motion to continue a hearing because of the absence of evidence to be made by affidavit. The affidavit must show the materiality of the evidence expected to be obtained; that due diligence has been used to obtain the evidence; and where the evidence may be. If the motion is based on the absence of a witness, the party's affidavit must show: the name and residence of the witness, if known; the probability of procuring the testimony in a reasonable time; that absence of the witness was not procured by the party nor by others at the request, knowledge, or consent of the party; what facts the party believes to be true; and that the party is unable to prove the facts by another witness whose testimony can be readily procured.

Subsection (c) provides that if, upon the receipt of a continuance motion under subsection (b), the adverse party stipulates to the truth of the facts which the party seeking the continuance indicated could not be presented, the hearing shall not be continued.

17. 312 IAC 3–1–17 Record of Proceedings; Adjudicative Hearings Generally; Record of the Director for Surface Coal Mining Permits

Subsection (a) provides that the record required to be kept by an administrative law judge under IC 4–21.5–3–14 commences when a proceeding is initiated under 312 IAC 3–1–3(a) and includes the items described in IC 4–21.5–3–33.

Subsection (b) provides that in addition to subsection (a), this subsection applies to a proceeding concerning the approval or disapproval of a permit application, permit revision application, or permit renewal under IC 14–34–4–13. However, nothing in this subsection precludes the admission of testimony or exhibits that are limited to the explanation or analysis of materials included in the record before the director. Neither does it preclude the manner in which the materials were applied, used, or relied upon in evaluating the application. Upon a timely objection made before or during a hearing, the administrative law judge shall exclude testimony or exhibits that are offered but that identify or otherwise address matters that are not part of the record before the director under IC 14–34–4–13. The record before the director includes: the permit; the permit application as defined at 310 IAC 12–0.5–10; documentation tendered or referenced, in writing, by the applicant or an interested person for the purposes of evaluating, or documentation used by the department to evaluate, the application; the analyses of the department in considering the application, including the expertise of the department's employees and references used to evaluate the application; documentation received under IC 14–34–4, including the conduct and results of any informal conference or public hearing under IC 14–34–4–6; and correspondence received or generated by the department relative to the application, including letters of notification, proofs of filing newspaper advertisements, and timely written comments from an interested person.

18. 312 IAC 3–1–18 Petitions for Judicial Review

Subsection (a) requires a person, who wishes to take judicial review of a final agency action entered under 312 IAC 3–1, to serve copies of a petition for judicial review upon the persons described in IC 4–21.5–5–8.

Subsections (b), (c), and (d) list the names and addresses that a copy of the petition required under IC 4–21.5–5–8 must be served.

Subsection (e) provides that the commission and its administrative law judge provide the forum for administrative review under this rule. Neither the commission nor the administrative law judge is a party.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Indiana program.

Written Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under ''DATES'' or at locations other than the Indianapolis Field Office.

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. IN–149–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Indianapolis Field Office at (317) 226–6700.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on March 22, 2000. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodations to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The hearing will not be held if no one requests an opportunity to speak at the public hearing.

To assist the transcriber and ensure an accurate record, we request that you provide us with a written copy of your testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and

persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 29, 2000.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 00–5494 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–394; MM Docket No. 00–35; RM–9818]

Radio Broadcasting Services; Lake Isabella, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Dana J. Puopolo requesting the allotment of Channel 239A to Lake Isabella, California, as that community's second local aural transmission service. Coordinates used for this proposal are the city reference at 35–35–11 NL; 118–26–34 WL.

DATES: Comments must be filed on or before April 17, 2000, and reply comments on or before May 2, 2000.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Dana J. Puopolo, 2134 Oak St., Unit C, Santa Monica, CA 90405.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–35, adopted February 16, 2000, and released February 25, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–5412 Filed 3–6–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[Docket No. 000105004–0004–01; I.D. 063099A]

RIN 0648–AI78

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Atlantic Herring Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement the Atlantic Herring Fishery Management Plan (FMP). This proposed rule would: Establish target total allowable catch (TAC) levels for each of three management areas, one of which is divided into inshore and offshore sub-areas; establish a procedure for the development and revision of annual specifications; establish initial specifications for the 2000 fishing year; establish incidental harvest limits when a management area is closed to directed fishing for Atlantic herring; establish a vessel monitoring system (VMS) requirement; establish vessel size limits; establish a framework adjustment process; establish permitting and reporting requirements; impose restrictions on transfers at sea; and implement other measures for administration and enforcement. The purpose of this proposed action is to manage the Atlantic herring (*Clupea harengus*) fishery pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the FMP and to prevent overfishing of the Atlantic herring resource.

DATES: Comments must be received at the appropriate address or fax number, (See **ADDRESSES**), on or before 5:00 p.m., local time, on April 21, 2000.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Atlantic Herring FMP.'' Comments also may be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or Internet.

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to the Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

Copies of the FMP, its Regulatory Impact Review (RIR) and the Initial Regulatory Flexibility Analysis (IRFA) and the Supplement to the IRFA, and the Final Environmental Impact Statement (FEIS) are available from Paul J. Howard, Executive Director, New England Fishery Management Council (Council), 50 Water Street, The Tannery-Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978–281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The FMP was developed by the New England Fishery Management Council (Council) in response to concerns that the continued development and increased landings in the Atlantic herring fishery required implementation of management measures to prevent overfishing and to allow for the orderly development of the fishery. Development of the FMP was coordinated closely with the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission (Commission) to ensure that complementary management measures in both state and Federal waters were developed.

Atlantic herring were first managed by a Council fishery management plan approved by the Secretary of Commerce (Secretary) and implemented on December 28, 1978. This fishery management plan used a quota system to control catches in the fishery. The quota system, however, proved ineffective at controlling harvests because of unresolved ambiguities over catches in state waters. On September 28, 1982, the Secretary withdrew approval of that fishery management plan. Management of the resource then relied upon efforts by the States of Maine, New Hampshire, Massachusetts, and Rhode Island to adopt complementary regulations through interstate fishery management plans. In 1995, NMFS adopted a Preliminary Management Plan for the Atlantic Herring of the Northwestern Atlantic (PMP) to regulate foreign joint venture activities for Atlantic herring in the exclusive economic zone (EEZ) (60 FR 37848, July 24, 1995). In 1996, the Council and the Commission resumed the development of additional management measures. Rather than develop a joint FMP, the Council and the Commission began the process of closely coordinating separate FMPs for state and Federal waters.

The Council announced its intent to prepare an Environmental Impact Statement (EIS) for adoption, approval, and implementation of the FMP (62 FR 4384, August 2, 1997) and scoping hearings were held in Maine, Massachusetts, Rhode Island, and New Jersey in the fall of 1997. Preliminary discussions on the management measures began soon after. The Council published a draft EIS (DEIS)(63 FR 34871, June 26, 1998) and held public hearings in Maine, Massachusetts, Rhode Island, New Jersey, and Virginia in June and July 1998. These public hearings resulted in further refinements to the proposed management measures, which are presented in this proposed rule.

The Council formally submitted the FMP for Secretarial review and NMFS published a notice of availability (NOA) in the **Federal Register** on July 27, 1999 (64 FR 40542) requesting public comments. The public comment period for the FMP ended September 27, 1999. All comments received through September 27, 1999, were considered in the approval/disapproval decision on the FMP and will be addressed in the final rule. On October 27, 1999, NMFS, on behalf of the Secretary, approved all but four of the management measures contained in the FMP and informed the Council of its decision. The disapproved management measures were: (1) Effort limits through mandatory days out of the fishery; (2) spawning area closures; (3) adjustment of the TAC for Management Area 1A; and (4) a prohibition on specifying a total allowable level of foreign fishing (TALFF). The proposed scheme to restrict fishing to specific days based on the proportion of the TAC that is caught in a management area was disapproved because fishers could easily work around the days-out restrictions and undermine the conservation intent of National Standard 1 of the Magnuson-Stevens Act. Some fishers may fish on bad weather days to work around the days-out restrictions, raising a safety issue under National Standard 10 of the Magnuson-Stevens Act. The costs of imposing days out of the fishery outweigh the uncertain benefits. NMFS disapproved the spawning area closures because it was not demonstrated that the benefits of imposing the closures outweigh the costs. The spawning area closures would not apply to mobile, bottom-tending vessels which may

disturb spawning herring, but only to purse seiners and mid-water trawlers participating in the directed fishery for Atlantic herring. The conservation benefits of this measure are uncertain. Further, the NMFS Northeast Region Office of Law Enforcement stated that spawning area closures that allow the possession of herring on board pose enforcement problems. NMFS also disapproved the in-season adjustment of the TAC for Management Area 1A because there is no real-time mechanism by which the Administrator, Northeast Regional Office, NMFS (Regional Administrator) can monitor the Canadian catch or that catch information would be provided in a timely fashion in future years. This measure is not consistent with section 303(a)(1)(A) of the Magnuson-Stevens Act as it is not a necessary and appropriate conservation and management measure because it may not work. It is also inconsistent with National Standard 7 of the Magnuson-Stevens Act because it will only impose costs to NMFS without assured benefits. Lastly, NMFS disapproved the prohibition on specifying a TALFF because this prohibition would be inconsistent with sections 201(d) and (303)(a)(4)(B) of the Magnuson-Stevens Act which require that any fishery management plan prepared by a Fishery Management Council, or by the Secretary, assess and specify the portion of optimum yield (OY) which, on an annual basis, will not be harvested by domestic fishing vessels and can be made available for foreign fishing. NMFS informed the Council that the proposed rule would provide for the annual specification of a TALFF, even if, in any given year, it is determined that the amount should be zero. Consequently, a TALFF is specified, albeit at zero, for the proposed initial specifications for the 2000 fishing year.

Herring landings have steadily increased in the last 10 years, with an increasing proportion taken in the EEZ, rather than in state waters. About 70 percent of the landings is now taken in the inshore Gulf of Maine (GOM). As recently as the late 1970s the stop seine and weir fishery accounted for the majority of the landings. Now the fishery is prosecuted primarily by purse seine and mid-water trawl vessels and the proportion of the landings taken by fixed gear in state waters is insignificant. The two major markets for herring are the bait market and sardine canneries. The lobster fishery has grown to depend almost entirely on herring for bait in the absence of an alternative, and it is estimated that 60 to 70 percent of the herring caught is used for bait in the lobster or tuna fisheries; about 30 percent is used by the sardine canneries; and some is processed into meal, frozen for use as bait in other fisheries, or used for animal feed.

The robust status of the herring resource, coupled with increasing regulation in other fisheries, has generated interest by fishermen to exploit the stock. The resource, serving as an alternative to the groundfish fishery for some fishermen, can support additional landings if spread throughout the range, but protection needs to be provided to individual spawning components. Scientists caution that the landings in the GOM inshore area should not increase; instead, any increase in landings of Atlantic herring should come from other areas.

Therefore, the FMP contains an approved measure that has target TACs, assigned by management areas, that would help prevent overfishing of components of the stock complex.

Atlantic herring is a key prey species in the North Atlantic Ocean and a food source for a wide variety of other fish species, marine mammals, and birds. If herring landings were to increase without any controls in place to prevent overfishing, there could be broad impacts on the entire ecosystem. For this reason, the Council has been cautious in setting the proposed specifications and target TACs for the fishery.

The biological, economic, and social impacts of these measures and the cumulative impacts associated with other FMPs and regulations are discussed in the FMP and FEIS.

Status of the Stocks

In 1998, the 27th Northeast Regional Stock Assessment Workshop (SAW 27) was convened to examine the status of several species, including the coastal stock complex of Atlantic herring. SAW 27 reported that the abundance of herring in continental shelf waters between Cape Hatteras and the GOM has been increasing steadily since the mid-1980s, and the Georges Bank (GB)/Nantucket Shoals component has fully recovered from over-exploitation brought about by heavy foreign fishing in the 1960s and 1970s. As indicated in its June 1998 plenary report, SAW 27 estimated the current biomass of Atlantic herring as 2.9 million metric tons (mt), and spawning stock biomass as 1.8 million mt. Fishing mortality rate (F) of the entire stock complex is very low while recruitment in recent years appears to be very large. However, SAW 27 cautioned that there is considerable uncertainty over the current stock size estimate, so that any increase in landings should be allowed gradually.

SAW 27 estimated the maximum sustainable yield (MSY) as 317,000 mt, based on a conditioned run of a surplus production model. The Stock Assessment Review Committee (SARC), in reviewing this MSY estimate, expressed concern that it may be unrealistic. The SARC suggested that a yield-per-recruit model be used to estimate MSY. This model produced MSY estimates ranging from 108,000 to 290,000 mt. The SARC advised it would not be prudent to consider MSY to be above 200,000 mt until the size of recent year classes could be better estimated.

SAW 27 also considered the status of various stock components. The NMFS Northeast Fisheries Science Center fall trawl survey data were examined in order to determine the relative abundance of herring in three different areas during spawning season. SAW 27 concluded that, during spawning season, 25 percent of the stock complex occupies the GOM area, 65 percent is in the Nantucket Shoals area, and 10 percent is on GB. Analysis of this data shows that the proportion on GB appears to be increasing. While the overall complex is underutilized, SAW 27 concluded that the GOM component, which provides most of the commercial harvest, is fully utilized. The SARC recommended that any increases in Atlantic herring catches should not come from the GOM stock component.

Overfishing Definition

This FMP establishes an overfishing definition for Atlantic herring in accordance with the national standards of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act of October 1996. Under the revised standards, overfishing definitions must be composed of two reference points, one for F and one for stock biomass. ''Overfishing'' occurs whenever a stock or stock complex is subjected to an F value that jeopardizes the capacity of a stock or stock complex to produce MSY on a continuing basis. ''Overfished'' describes a stock or stock complex with a sufficiently low biomass to require a change in management practices to achieve the appropriate level or rate of stock rebuilding to the biomass target. Comments on the overfishing definition for this FMP were solicited in the NOA, because, although not codified in the regulatory text of the proposed rule, the overfishing definition is part of the FMP. The overfishing definition was approved by NMFS on October 27, 1997.

Annual Specifications

The proposed rule would establish a procedure for establishing OY that is based on the allowable biological catch (ABC). ABC would be determined by multiplying the estimate of current stock size by the target F. OY could not exceed ABC, adjusted by the Canadian GB and New Brunswick fixed gear catches, which could not exceed 20,000 mt for the Canadian New Brunswick fixed gear harvest and 10,000 mt for the Canadian GB harvest. The proposed rule would limit the amount of Canadian catch that would be considered when setting OY. OY also would not exceed MSY, unless an OY that exceeds MSY in a specific year is consistent with a control rule that ensures the achievement of MSY and OY on a continuing basis. However, OY would not exceed MSY prior to the 2001 fishing year. Because of some uncertainty in the current stock size estimates, the Council recommended, for purposes of setting the initial ABC, that the current stock size be assumed to equal B_{MSY} (the biomass level that produces maximum sustainable yield), rather than basing it on actual estimates of current stock size, which exceed B_{MSY}. This precautionary approach would limit catches until the estimates can be improved. The resulting ABC and OY, however, are still more than twice the amount of current landings.

The proposed rule would establish four additional specifications: Total amount allocated to processing by foreign ships (JVPt), either in state waters (IWP) or in the EEZ (JVP); amount of the domestic annual processing (DAP) allocated for at-sea processing by domestic vessels that exceed the vessel size limits established in the FMP (USAP); total amount of herring that can be taken in U.S. waters and transferred to Canadian herring carriers for transshipment to Canada (BT) as authorized by the Sustainable Fisheries Act (Pub. L. 104–297, section 105(e)); and, TALFF, if any, from that portion of OY that would not be harvested by domestic vessels. The Council and the Commission would consult annually to determine the allocation of JVPt to IWP and JVP.

Initial Specifications

This proposed rule would establish initial specifications for the 2000 fishing year. The FMP established specifications for the 1999 fishing year that would remain in effect for the 2000 fishing year, unless revised through the specification process. Because the 1999 fishing year has passed (the fishing year coincides with the calendar year), this proposed rule would establish the initial specifications for the 2000 fishing year at the levels specified in the FMP for the 1999 fishing year.

The proposed specifications include an ABC equal to 300,000 mt and an OY equal to 224,000 mt. Because the Council determined that the domestic annual harvest (DAH) is equal to the OY, TALFF would be specified at zero for the 2000 fishing year. Estimates of DAP are based on recent processing estimates and allow for possible errors in estimates of the bait market and increased development of processing capacity. No herring would be allocated to USAP for the 2000 fishing year, which would prohibit at-sea processing by domestic vessels exceeding the proposed size limits. Table 1 contains the proposed initial specifications for the 2000 Atlantic herring fishery.

TABLE 1—PROPOSED ANNUAL SPECIFICATIONS[1] (MT) FOR THE ATLANTIC HERRING FISHERY, JANUARY 1 THROUGH DECEMBER 31, 2000

Specification	Atlantic Herring
ABC	300,000
OY	224,000
DAH	224,000
DAP	180,000
USAP	0
BT	4,000
JVPt	
JVP - Management Area 2	10,000
JVP - Management Area 3	5,000
JVP - Subtotal	15,000
IWP	25,000
JVPt - Total	40,000
TALFF	0
Reserve	0

[1] See Table 2 for Area TACs for Fishing Year 2000.

Management Areas

The proposed rule would establish three management areas based on the existing areas established by the PMP and the Commission's FMP. However, Management Area 1 would be divided into an inshore (Area 1A) and an offshore (Area 1B) area. The Council would use the management areas as the basis for recommending the distribution of the TAC to different spawning components for the distribution of JVP allocations and could use the management areas as the basis for implementation of other management measures in the future.

Total Allowable Catch

The proposed rule would establish a target TAC for the 2000 fishing year. The FMP established a target TAC for the 1999 fishing year that would remain in effect for the 2000 fishing year, unless revised through the specification process. Because the 1999 fishing year has passed, this proposed rule would establish the target TAC for the 2000 fishing year at the level specified in the FMP for the 1999 fishing year. The TAC would be re-specified for each new fishing year. The TAC for a given year would be distributed to the management areas based on existing knowledge of fishing patterns, herring stock structure, and herring migration. For the 2000 fishing year the proposed percentage allocations for the various areas are: Area 1A - 20 percent; Area 1B - 11 percent; Area 2 - 22 percent; Area 3 - 22 percent; Reserve Area 2 - 24 percent. (See Table 2 for resultant management area target TACs.) Each year the Council's Herring Plan Development Team would examine available data and recommend a TAC and its distribution to the Council. The Council would then consult with the Commission before it recommends a TAC to NMFS. NMFS would review the Council's recommendations and set the TAC, publish the proposed TAC in the **Federal Register** for public comment, make a final determination, and publish the final TAC and responses to public comments in the **Federal Register**. All harvests of Atlantic herring, from both state and Federal waters, would be applied against the TAC.

The directed fishery for herring would be closed in a management area after the date on which 95 percent of the area TAC would be caught, as projected by NMFS. Closure of the directed fishery with 5 percent remaining for an area TAC would allow the incidental harvest of herring in other fisheries to continue, while minimizing the likelihood the area TAC would be exceeded. This percentage is based on estimates of the incidental harvest of herring in other fisheries. If the percentage allocated to the incidental harvest overestimates the amount caught (incidental harvests after a closure are less than 5 percent), the 5 percent remainder for a given area TAC could be reduced by NMFS during the annual specification process the following year. If the percentage allocated to the incidental harvest underestimates the amount caught (incidental harvests after a closure are more than 5 percent), the 5 percent remainder for a given area TAC could be increased the following year through a framework adjustment. After an area is closed, vessels would be allowed to possess, transfer, or land only 2,000 lb (907.2 kg) of herring, in or from, the closed area. Vessels that harvest herring in an open area would be allowed to

transit the closed area, provided all gear is stowed.

The industry would be notified of the closure of the directed fishery for herring in a management area through notification published in the **Federal Register** and a variety of other methods, including news releases, and through state agencies.

Area TACs for Fishing Year 2000

Table 2 lists the proposed area TACs for the 2000 fishing year.

TABLE 2—PROPOSED AREA TACS FOR FISHING YEAR JANUARY 1, 2000, THROUGH DECEMBER 31, 2000

Management Area	TAC (mt)
Area 1A	45,000
Area 1B	25,000
Area 2	50,000
Area 3	50,000
TAC Reserve - Area 2	54,000
TAC Total	224,000

Transfers at Sea

There would be no specific restrictions on transfers of herring at sea, unless a management area is closed to directed fishing for Atlantic herring and/or other restrictions in the regulations apply. When a management area is closed to directed fishing for Atlantic herring, transfers would be limited to no more than 2,000 lb (907.2 kg) of herring per day, in or from, an area subject to the closure. A vessel could not transfer more than 2,000 lb (907.2 kg) of herring taken from a closed area, nor transfer or sell any herring taken from a closed area to a joint venture vessel.

U.S. vessels could not transfer herring to Canadian herring carriers that transship U.S.-caught herring, if authorized pursuant to the Sustainable Fisheries Act (Pub. L. 104–297, section 105(e)), after the amount of herring transshipped equals the amount of the BT specification. Canadian herring carriers could not receive U.S.-caught herring after the amount transshipped equals the amount of the BT specification.

Vessel Size Limits

Domestic vessels ≥ 165 feet (50.3 m) in length overall (LOA), or > 750 gross registered tons (GRT)/(680.4 mt), or > 3,000 horsepower would not be permitted to catch, take, or harvest herring in or from the EEZ. Domestic vessels > 165 feet (50.3 m) LOA, or > 750 GRT (680.4 mt) would be allowed, however, to process or receive herring in the EEZ, but would be limited to the allocated amount specified pursuant to the specification process for USAP.

NMFS notes discrepancies in the size, capacity, and/or horsepower restrictions between the Atlantic Herring and Atlantic Mackerel FMPs. However, NMFS in its October 27, 1999, letter to the Council indicated that it intends to work with the New England and Mid-Atlantic Councils to resolve inconsistencies in vessel size measures between their Atlantic Herring and Atlantic Mackerel FMPs.

Roe Fishery

The harvest of Atlantic herring for roe would be allowed, provided the carcasses are not discarded. The Council would monitor the development of a roe fishery and could, in the future, recommend a limit on the amount of herring that may be harvested for roe.

In the NOA for the FMP, NMFS identified the specification of the amount of herring to be used for roe as a measure of concern because of an erroneous interpretation of the Council's intent with respect to the manner in which limitations on the amount of herring harvested for roe would be implemented. Any restriction would be implemented through the framework adjustment process in accordance with 50 CFR § 648.206 rather than through notice action.

Foreign Fishing Vessel Restrictions

Foreign fishing vessel permitting and reporting requirements are established by 50 CFR 600, Subpart F, which include regulations on harvesting by foreign fishing vessels and joint ventures and internal waters processing and support. The Council would be allowed to recommend joint ventures and TALFF in all management areas, subject to an annual review. The Council could choose to determine joint venture specifications and TALFF by management area. If joint venture allocations and TALFF are specified by area, all herring supplied to the joint venture and/or TALFF would have to come from that management area.

Vessel Monitoring Systems

The proposed rule would require the installation and use of a VMS unit on vessels in the directed herring fishery that caught > 500 mt in the previous year, or vessels whose owner intends to harvest > 500 mt in the current year. A VMS would help facilitate the monitoring of area-specific TACs and would assist with the enforcement of closures of management areas to directed fishing for Atlantic herring, as well as facilitate the enforcement of closures imposed under regulations implementing other FMPs. If a vessel owner does not declare the intention to harvest > 500 mt at the start of the year, and does not install a VMS unit on the vessel, the vessel may not harvest > 500 mt in that fishing year. The VMS unit must be installed prior to the beginning of the fishing year in order to land > 500 mt in that fishing year. Because in this application VMS is intended primarily to monitor areas fished as opposed to days-at-sea effort, a VMS unit would have to be operating any time an Atlantic herring vessel is underway, but would not have to be operating when a vessel is moored or maneuvering in a harbor. This would minimize communication costs to vessel operators and remove the necessity to provide power to a moored vessel with a VMS unit.

Permitting Requirements

All commercial vessels meeting certain eligibility requirements fishing for, possessing, or landing herring in or from the EEZ would be required to obtain a Federal Atlantic herring permit. Domestic vessels ≥ 165 feet (50.3 m) LOA, or > than 750 GRT (680.4 mt), or > 3,000 horsepower would not be eligible to be issued a permit to harvest or take herring. However, domestic vessels > 165 feet (50.3 m) LOA, or > 750 GRT (680.4 mt), regardless of horsepower, would be eligible to obtain a processing permit to process or receive herring in the EEZ, limited to the amount allocated for USAP pursuant to the specification process. Other than this restriction on vessel size, there would be no restrictions or qualification criteria necessary for a domestic vessel to receive a permit. A vessel with a Federal Atlantic herring fishing permit would have to be marked in accordance with 50 CFR 648.8.

An Atlantic herring carrier vessel would be required to obtain, in addition to a Federal Atlantic herring permit, a letter of authorization from the Regional Administrator that would allow such vessel to transport herring caught by another fishing vessel.

Operators of vessels issued an Atlantic herring fishing or processing permit would be required to obtain an operator permit. There would be no qualification or test for this permit. Dealers of Atlantic herring would be required to obtain a dealer permit and to comply with reporting requirements. To limit the number of entities that would have to comply with dealer permitting and reporting requirements, given the nature of herring fishing and processing, this rule narrowly defines Atlantic herring dealers as persons owning or operating a shore-based

pump that offloads herring from vessels with a Federal Atlantic herring permit, persons that purchase herring that is offloaded directly from vessels with a Federal Atlantic herring permit other than for their own use as bait, and persons owning or operating a processing vessel that receive Atlantic herring from vessels with a Federal Atlantic herring permit. The purpose of narrowly defining who is a dealer is to minimize the burden of dealer reporting requirements. Many persons purchase the herring that is offloaded through a shore-based pump from one vessel. Under these circumstances, this definition would require only the pump operator to obtain a dealer permit and to file dealer reports, rather than all the persons who receive herring from the pump operator.

This proposed rule would require Atlantic herring processors to obtain a processing permit and to comply with reporting requirements. Atlantic herring processors are defined as persons who receive or obtain unprocessed Atlantic herring for the purposes of rendering it suitable for human consumption, bait, commercial uses, industrial uses, or long-term storage. These requirements could result in a person needing both a dealer and a processor permit. For example, a person who purchases herring directly from a vessel and then sells it as bait would need both permits.

Reporting Requirements

This proposed rule would extend the existing Vessel Trip Report (VTR) system to vessels with Atlantic herring permits. This would require the owner/operator to submit monthly reports on fishing effort, landings, and discards on forms supplied by the Regional Administrator. In addition, in order to improve real-time monitoring of the harvest, an Interactive Voice Response (IVR) system would be required to be used. The FMP uses area-specific TACs to control fishing mortality. To be effective, harvests need to be closely monitored to ensure that the TAC is not exceeded. Since only vessel operators can identify where they harvest herring, the area specific TACs could not be monitored effectively through only the dealer reporting system. The VTR system relies on monthly reports, on paper, that are entered into a database. Accurate harvest statistics from this system are typically not available until 30 to 45 days after fish are landed. Given the high harvest rates in the herring fishery at certain times of the year, this would make it difficult to accurately project landings in a timely way. In order to improve the timely collection of harvest information, this proposed rule would require that an owner/operator of a vessel required to be equipped with a VMS unit report its harvest (landings and discards), by area, on a weekly basis. These reports would be called in (using a toll free number) to an automated response system. An owner/operator of a vessel with a VMS unit would have to call in a report for each week of the year, even if still at sea, including weeks they do not harvest herring. In addition, an owner/operator of a vessel that harvests ≥ 2,000 lb (907.2 kg) of herring on a trip would also call in a report by Tuesday of the following week, even if the herring had not yet been landed. This system would improve the timeliness of information on harvests of herring, which would facilitate more accurate predictions about when the TAC will be attained.

Atlantic herring dealers would be required to submit weekly dealer reports by mail. Although dealers are required to submit a weekly report to an IVR system for other Northeast Region quota managed species, Atlantic herring dealers would not be required to submit a weekly report to an IVR system unless the Regional Administrator determines that there is a need for such reports.

Atlantic herring processors would be required to submit annually the Fishery Products Report, U.S. Processors, Annual Survey, (NOAA Form 88–13). This report, collecting information on the uses of herring, would facilitate the management of the fishery to achieve OY.

Essential Fish Habitat

The Council submitted an omnibus essential fish habitat (EFH) amendment to address EFH provisions for several FMPs for Northeastern fisheries. The omnibus EFH amendment document also included the EFH components of the proposed FMP, which was then still under development by the Council. Although the Atlantic herring EFH components were included in the omnibus EFH amendment, they were not considered during Secretarial review of the omnibus EFH amendment. For Atlantic herring, the NOA for the omnibus EFH amendment (63 FR 66110, December 1, 1998) stated that ''the omnibus amendment includes the EFH components of the FMP that is being developed by the [NEFMC Council]. The EFH information for Atlantic Herring will be incorporated by reference into the FMP when that FMP is submitted for Secretarial approval.'' The NOA for the FMP invited comment on the approvability of the herring EFH provisions in the Council's omnibus EFH amendment. Under the proposed framework adjustment process for Atlantic herring, measures could be added or adjusted to describe, identify, and protect EFH and designate habitat areas of particular concern within EFH.

Annual Monitoring and Framework Adjustment Measures

The FMP will be monitored on an annual basis. The status of the resource and the fishery will be reviewed by the Council's Atlantic Herring Oversight Committee in consultation with the Commission's Atlantic Herring Section. Recommendations on specifications will be developed, as well as any suggested changes to the management measures. These will be forwarded by the Herring Oversight Committee to the Council, which will take appropriate action. Specifications will be recommended to NMFS, and changes to management measures could be adopted through a framework adjustment or FMP amendment, as appropriate. This process will begin in July of each year so that changes could be implemented by January 1 of the following fishing year. The Commission will be expected to implement any corresponding changes in state waters.

The framework adjustment process adopted in the FMP is identical to that used in other Northeast Region fisheries. This process allows changes to be made to the regulations in a timely manner without going through the plan amendment process, as appropriate. It provides a formal opportunity for public comment that substitutes for the customary public comment period provided by publishing a proposed rule. If changes to the management measures were contemplated in the FMP and if sufficient opportunity for public comment on the framework action existed, NMFS could bypass the proposed rule stage and publish a final rule in the **Federal Register**. The management measures that could be implemented and adjusted through the framework process include the following: (1) Management area boundaries; (2) size, timing, or location of spawning area closures; (3) closed areas other than a spawning closures; (4) restrictions in the amount of fishing time; (5) a days-at-sea system; (6) adjustments to specifications; (7) adjustments to the Canadian catch deducted when determining specifications; (8) distribution of the TAC; (9) gear restrictions (such as mesh size) or requirements (such as bycatch-reduction devices); (10) vessel size or horsepower restrictions; (11) closed seasons; (12) minimum fish size; (13) trip limits; (14) seasonal, area, or industry sector quotas; (15) measures to describe EFH, fishing gear management

measures to protect EFH, and designation of habitat areas of particular concern within EFH; (16) measures to facilitate aquaculture, such as minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones, and any other measures included in the FMP; (17) changes to the overfishing definition; (18) vessel monitoring system requirements; (19) limits or restrictions on the harvest of herring for specific uses; (20) quota monitoring tools, such as vessel, operator, or dealer reporting requirements; (21) permit and vessel upgrading restrictions; (22) implementation of measures to reduce gear conflicts, such as mandatory monitoring of a radio channel by fishing vessels, gear location reporting by fixed gear fishermen, mandatory plotting of gear by mobile fishermen, standards of operation when conflict occurs, fixed gear marking or setting practices; gear restrictions for certain areas, vessel monitoring systems, restrictions on the maximum number of fishing vessels, and special permitting conditions; (23) limited entry or controlled access system; (24) specification of the amount of herring to be used for roe; and (25) any other measure currently included in the FMP.

Clarification of Initial ''Fishing-up'' Period

The Council, in its discussion of specifications for the Herring FMP, referred to an initial ''fishing-up'' period in which OY would not exceed MSY. A complete discussion is contained in section 3.2 of Volume I of the FMP.

NMFS interprets the initial ''fishing-up'' period to mean the 2000 fishing year.

Preliminary Management Plan for the Atlantic Herring Fishery of the Northwestern Atlantic

On July 24, 1995 (60 FR 37848), NMFS announced approval of the PMP to regulate foreign joint venture activities for Atlantic herring in the EEZ. The PMP, which set the initial specification for Atlantic herring, provided joint venture opportunities in the exclusive economic zone by allocating a portion of the allowable biological catch for joint venture processing. The PMP also established permit conditions and restrictions for foreign vessels that participate in joint ventures. Because the FMP addresses issues related to Atlantic herring foreign joint venture activities, NMFS proposes to withdraw approval of the PMP and to remove existing regulations related to Atlantic herring (50 CFR 600.525) at the time the final rule implementing the FMP becomes effective.

Classification

The Regional Administrator determined that the FMP is necessary for the conservation and management of the Atlantic herring fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This action has been determined to be significant for the purposes of E.O. 12866.

The Council prepared an FEIS for the FMP; a notice of availability was published on September 24, 1999 (64 FR 51753). A copy of the FEIS may be obtained from the Council (see **ADDRESSES**).

In compliance with the Regulatory Flexibility Act, the Council has prepared an IRFA that describes the economic impacts of the proposed measures on a substantial number of small entities. Reasons why the action is considered, as well as the objectives and legal basis of the rule, are described in the preamble to this rule and are not repeated here. The impacts on small entities attributable to the preferred management measures for approved measures and alternative management measures to the approved measures are discussed below. The IRFA and Supplement to the IRFA also contain information on the impacts on small entities of the measures disapproved by NMFS.

Small Entities Affected by an Open Access Fishery

The identification of the number of small entities affected by this rule is complicated in two ways. First, vessels fishing for herring are not currently required to possess Federal herring permits. Second, while many vessels currently landing herring possess other Federal permits or letters of authorization, there are some vessels that fish for herring only in state waters that do not possess such permits or authorizations. Only those vessels that have another Federal permit are required to submit vessel trip reports and can be readily identified in the permit, vessel trip report, and dealer weighout databases.

Because some vessels may target herring for a small number of trips each year, vessels were identified as participating in a ''directed'' fishery for herring if they landed at least one trip of one metric ton (2,205 lb) or more of herring during 1997. There were only 61 vessels, which landed 97,300 mt, amounting to 99 percent of all herring landings in the Northeast, while 140 vessels landing herring during 1997 accounted for less than 71 mt. Expressed in terms of revenues, the 61 vessels derived about $10.7 million from herring fishing while the remaining vessels' *total* herring revenues did not exceed $8,000. Therefore, for IRFA purposes, the set of affected vessels is limited to these 61 vessels in the directed herring fishery.

Of the 61 vessels, 17 of them derived, on average, less than $1,000 in herring revenues in 1997. The remaining 44 vessels were divided into two groups. The first group of 25 vessels derived, on average, $5,534 from herring revenues in 1997. The remaining group of 19 vessels earned, on average, $524,000 from herring revenues in 1997. The 44 vessels constitute 22 percent of the 201 vessels that landed some herring in 1997 and 72 percent of the 61 vessels in the directed herring fishery. The regulations would mostly affect the group of 19 vessels that, on average, earned $524,000 from herring revenues in 1997. These vessels alone represent 31 percent of all business entities in the directed herring fishery. Whether the affected set of vessels is defined to include only 61 vessels or all of the 201 vessels that landed herring in 1997, the regulations would affect a substantial number, i.e., more than 20 percent, of the small entities in the fishery.

The Council also considered adopting a limited entry or controlled access system alternative. The Council considered a comprehensive system that could be adopted for either the entire management unit or for specific management areas. This alternative included the possibility of using limited entry in the GOM where there is a desire to restrict harvests, but not in the offshore areas where there is a desire to increase fishing effort. The Council did not choose this approach, because it felt that it would limit the ability of some smaller vessels in rebuilding fisheries to shift into the herring fishery.

The Council did not perform a detailed analysis of the impact of a limited entry or controlled access system on small businesses because this alternative was not pursued. The impacts of a controlled access or limited entry system on small businesses in the herring fishery depends on the qualification criteria used to limit the number of participants. It also depends on whether the limited entry system applied to all management areas or only particular management areas. The Council decided not to pursue the controlled access alternative because it conflicted with FMP goals and the full details of the proposal were not defined.

The Council did provide the public an opportunity to comment on a wide variety of possible qualification criteria, and illustrated how those criteria would limit participants in the fishery. These criteria and their impacts illustrate the number of small businesses that would be affected by a limited entry program. At one extreme, the fishery would have been limited to 15 vessels that fished in Management Area 1 in 1996 or 1997 and possessed a letter of authorization to use small mesh nets in the GOM. If this qualification criteria were adopted for all management areas, 46 vessels that participated in the directed herring fishery in 1997 would be eliminated from the fishery. If only applied to Management Area 1A, it would eliminate 3–5 vessels that fished in this area but did not obtain a letter of authorization. It would also prevent vessels in other fisheries from participating in the herring fishery. At the other extreme, a proposed criteria would have issued a limited entry permit to any vessel that possessed a squid, mackerel, or butterfish permit. This would have qualified over 2,800 vessels for the fishery. The impacts of a large number of participants in the fishery on small businesses would be little different than the impacts from the open access alternative proposed by the Council.

Impacts of the Management Areas and Sub-areas

The management areas adopted by the FMP are based on knowledge of the various spawning components. This allows the development of management measures that specifically target a particular spawning component. The management areas further provide the basis for TAC distribution and have been established to avoid the over-exploitation of individual spawning components that are included within the stock complex. The designation of management areas is not expected to have any direct economic impacts. The establishment of the areas would not impose any additional requirements on vessel operators, would not directly limit participation in the fishery, and would not restrict catches. The areas are, however, used to guide the distribution of the TACs, which would have economic impacts on vessels that are discussed in the following section.

Impacts of TAC Distribution

Under the existing management scheme, there are no limits on the domestic harvest of herring. While overall revenues could increase under the FMP, there would be changes in which management areas supply those revenues. Historically, most domestic herring landings have come from the inshore GOM, defined now as Management Area 1A. The proposed management measures are not intended to reduce herring landings overall, but rather to reduce herring landings from Management Area 1A only. However, other TAC options considered by the Council also reduce the expected landings from Management Area 1A from current levels. The proposed TAC exceeds overall landings, and the proposed TAC by management area for Areas 1B, 2, and 3 exceed current landings from each of those management areas. Since specification of TACs in Areas 1B, 2 and 3 that are greater than current landing levels would not constrain fishing activity, reduce revenues, or impact small businesses, the Council focused on analyzing the economic impacts of the TAC t in Management Area 1A.

The range of options considered by the Council provided different levels of protection to individual spawning components. When considering the TAC distribution options, the Council did not just consider different TAC levels for the various management areas.

Each option also identified a different process for distributing the TACs. While some of the options have less economic impact on Management Area 1A revenues than the proposed action (based on catches in 1997 and 1998), the rejected options included methods of distributing the TAC that were determined not to meet the conservation goals and objectives of the FMP.

Option 1 proposed assigning a TAC to each of Management Areas 1A, 1B, 2A and 2B/3. (The proposed Area 2A - the northern part of Area 2 - is not adopted by this FMP.) The seasonal (winter) TAC assigned to Area 2A would have explicitly considered the mixing of GOM and GB/Nova Scotia fish in this area. By limiting the catch in this area, some control would have been exercised over the amount of GOM herring caught during the winter months. If the catch in this area during this time period was unlimited, it is possible that the GOM spawning component could be rapidly depleted without notice. Similarly, the TAC in Area 1A protects the GOM herring in this area during the remainder of the year. TACs for the other areas insure that the overall catch does not exceed the OY. This option was rejected because of uncertainty over the migration of GOM herring into the proposed Management Area 2. While the migration patterns can be estimated based on the location of herring in this area during the winter months when the GB stock had collapsed, the exact location of herring in this area is unknown.

Option 2 proposed assigning a TAC to each of Management Areas 1A and 3. A TAC was also to be assigned to Management Areas 1B and 2 combined (the TAC could be taken from these two areas regardless of catch location). TACs are assigned based on knowledge of stock structure and migration of herring. By limiting the catch in Management Area 1A, protection is provided to the GOM spawning component. Using a TAC to limit catches in Management Area 3 provides some protection to GB/Nantucket Shoals spawning component fish. The combined TAC in Management Areas 1B and 2 would simplify the administration of the TAC system. This option was rejected because the combined TAC for Management Areas 1B and 2 increases the risk of overfishing those herring in Management Area 1B in the summer months. Herring in this area are believed to come from both the GOM and GB/Nantucket Shoals spawning components. Large catches (in theory, at least, of up to the total TAC for these two areas) would unacceptably risk damaging these spawning components. While catches of this magnitude may be unlikely given recent landings in Area 1B, the strong market demand during the summer months when herring are in this area could result in an unacceptably high catch. By combining the TAC for this area with the TAC for Area 2, there is little protection provided to herring in Management Area 1B.

Option 3 proposed assigning TACs to all four areas for each of three seasons. It makes explicit use of knowledge of stock structure and relative stock sizes to control catch in each area and time period so that individual spawning components are not damaged. In theory, this option provided the greatest protection to individual spawning components of herring. This option was rejected however because, in practice, it relied on a level of detail on stock structure that is lacking. The complexity of the scheme also made it less likely that it could be accurately monitored and implemented, reducing its effectiveness.

Option 4 proposed assigning TACs to the three major management areas based on an estimate of the amount of fish that is present in these areas on an annual basis. It does not have as close a relationship to current knowledge on stock structure. It does provide some measure of protection to the individual spawning components, primarily through the use of conservative TACs. Because this method places less emphasis on seasonal migrations of

herring, any amount of herring assigned to Management Area 1B reduces the amount of herring available for Management Area 1A. TACs must be set at conservative levels to prevent overfishing of specific spawning components. This option was rejected because of its reliance on historic fishing patterns that may change.

Option 5 proposed assigning one overall TAC to the entire coastal stock complex based on the ABC and OY. This option was rejected because it ignores any information on stock structure, and assumed that the entire coastal stock complex is one homogenous stock. For this reason, it provides no protection whatsoever to individual spawning components. In theory, the entire OY could be taken from the GOM in the summer months. Harvests at this level far exceed historical catches from this area and could not be supported. This approach could decimate herring stocks if all fishing effort is concentrated in one management area.

The proposed TAC alternative would result in a greater decline in landings from 1996–97 levels in the in-shore GOM than the non-selected alternatives. (The potential changes in revenue under the various TAC options in Management Area 1A may be seen in Table E.58 of the FMP.) These rejected alternatives would increase the risk of overfishing the inshore herring resource. In general, the rejected options did not provide sufficient protection to specific spawning components of herring - specifically, the GOM spawning component of herring. (*Note*: The proposed options were developed prior to issuance of the report of the 27th SAW, which evaluated GOM herring as fully exploited.) The 27th SAW noted that current levels of F in the GOM may not be sustainable. The Council considered this report in selecting and determining its TAC distribution method and initial TACs.

Sixty-one vessels participated in the directed herring fishery in 1997. The negative impacts of the reduction in Area 1A TAC would not be uniform for all vessels or all sectors on the 61 vessels. It would most heavily impact those vessels that fished only in this area. Because almost 70 percent of the landings and 67 percent of the revenues from the entire herring fishery came from Area 1A in 1997, vessels that fish for herring exclusively or primarily within Area 1A are expected to experience the greatest negative impacts of the TACs established under the FMP. Of the 61 vessels in the entire directed fishery in 1997, 39 fished at least a portion of the year in Area 1A. Of these, 9 had annual herring revenues of less than $1,000 per vessel, 13 had annual herring revenues of between $1,000–$29,000 per vessel; and 17 had annual herring revenues of more than $30,000 per vessel. Based on the 1997 fishery (the most recent year landings data were available at the time the analysis was prepared), the imposition of the Area 1A TAC established under the FMP could reduce herring landings from this area by as much as 36.5 percent. Therefore, assuming proportional impacts of the TACs across all vessels fishing in Area 1A, 9 vessels could experience reductions in revenue of up to $365 per vessel, 13 could experience reductions of up to $10,843 per vessel, and 17 could experience reductions of more than $11,000 per vessel. Since about 67 percent of revenues from the entire herring fishery in 1997 came from Area 1A, the TAC could result in a decline in total revenues to the fishery of as much as 25 percent.

Actual impacts of the TAC are expected to be less than described above. The FMP establishes a TAC for the entire herring fishery at a level that would allow total landings to double over 1997 levels. Given that there is at least some flexibility for a portion of the 39 vessels that fished in Area 1A in 1997 to fish outside Area 1A for some or all of the fishing year, those vessels could harvest herring in other management areas and thereby replace some or all of the revenues lost to them due to Area 1A harvest restrictions. The extent of this revenue replacement depends on the willingness and ability of vessel owners to change ports or to travel farther to locate herring in other management areas, their ability to market their catch, and any ex-vessel price changes that might result. Furthermore, of the 39 vessels that fished in Area 1A in 1997, only 3 or 4 (purse seiners) fished exclusively within Area 1A. Although it is not possible to quantify the extent to which the other 35 or 36 vessels fished outside Area 1A, their dependence on Area 1A, and the precise impacts of Area 1A TAC restrictions on their revenues are likely less than those described above.

In addition, the Council's analysis was based on the best available landings-related information for 1997. While the proposed TAC would reduce landings from the 1997 high levels, 1998 landings information available for Area 1A indicate that only 43,000 mt were landed. This amount is 2,000 mt less than the proposed 45,000 mt TAC for this area. However, because of wide variations in Atlantic herring landings over the past 20 years, it cannot be determined that the decrease in the 1998 landings reflects a trend in the fishery. It is possible that other exogenous factors could have factored in the reduced 1998 landings.

Impacts of Permitting and Reporting Requirements

Vessels, dealers, and processors would be required to obtain permits and comply with reporting requirements. Some participants in the fishery already have a federal permit and comply with reporting requirements for another fishery. The compliance costs are primarily due to the time required to complete and submit the necessary forms. The annual costs to comply with these requirements are estimated at $7.80 for vessel permits, $25.32 for operator permits, $27.00 for vessel trip reports, and $52.00 (maximum) for interactive voice reports. Total annual compliance costs per vessel are thus $112 per vessel for these measures. The total annual cost for dealers is estimated to be $1.58 for permits and $78.70 for weekly landing reports, for an annual total of about $80 per dealer. The annual compliance costs for processors is also estimated to be $1.58 for permits and $7.83 for an annual report, or a total of $9.41 per processor. These costs are considered insignificant.

The Council's rationale for requiring permits, as opposed to taking no action in this regard, is to identify participants in the fishery. Currently, no comprehensive reporting requirements for vessels fishing for herring exist. When permitted, participants in the fishery would be identified and landings and purchases of herring would be reported. With the level of detailed reporting required, catches would be better monitored, enabling managers to more accurately calculate estimates of F and resource status.

Impacts of VMS Requirements

Vessels that intend to harvest > 500 mt of herring, or that harvested > 500 mt of herring in the previous year, would be required to operate a VMS unit. The annual cost per vessel to purchase, install, and operate a VMS unit is estimated to be $2,700. Additional costs would be incurred due to burden-hour estimates of the requirements associated with VMS, estimated at an additional $111 per vessel per year. At the > 500 mt threshold, this would be approximately 4 percent of annual revenues from herring. When compared to the average herring revenues of the 19 vessels that landed most of the herring in 1997 and who would be required to have a VMS based on 1997 landings, this cost is equal to approximately 0.5

percent of the average revenues for this group.

The Council considered requiring all vessels in the herring fishery to have a VMS. This alternative was rejected, as there seemed to be little justification to require a VMS on those vessels that land only a small amount of herring. The costs of installing and operating a VMS would exceed herring revenues for many of the vessels that landed only a small amount of herring, particularly those that did not participate in the directed fishery. The Council also considered not requiring a VMS on any herring fishing vessels. This alternative would have eased the burden on the small businesses in the herring fishery because they would not have had to pay for the installation and maintenance of the equipment. This option was rejected by the Council because it determined that it was crucial to require a VMS for administration and enforcement of the FMP. The FMP uses area-specific TACs to control F in the fishery. In order for there to be confidence in reported catch locations, there is a need for an independent method to verify fishing vessel location. The U.S. Coast Guard surveillance flights and aircraft could provide this verification, but are limited in number and could not cover the entire fishing area due to limited assets. A VMS system, on the other hand, would provide the ability to monitor vessel location whenever the vessel is underway. The VMS system would generate a record of each trip that could be compared to reported catch locations to make sure that catches were reported in the correct management areas. VMS would also make it easy for patrolling cutters and aircraft to locate herring fishing vessels and verify their activity. In addition, VMS would provide an additional capability to verify that vessels were not fishing in a management area when the area is closed because the TAC was exceeded. The Council determined that the benefits of a VMS requirement would exceed the costs imposed on small businesses.

With a no action alternative, the entire area closure would require surveillance. The > 500 mt threshold requirement to use a VMS unit insures that the majority of herring landings would be monitored, while minimizing costs to the industry by only requiring a VMS unit for a small number of specific vessels.

The compliance costs for the FMP would not result in an increase in the total costs of production by more than 5 percent.

Impacts of Vessel Size Limits

The FMP establishes a size limit on domestic harvesting vessels in the herring fishery. The Council recommended a size limit < 165 feet LOA, and no more than 750 GRT. Such vessels also must have no more than 3,000 shaft horsepower. The Commission first adopted such restrictions in a Commission emergency action in 1997 (reacting to the interest of large factory trawler owners to exploit the herring resource) and the Council voted at that time to support the Commission's action. Congress further addressed the issue in the NMFS appropriations bill for fiscal year 1998, and again in 1999, restricting NMFS from using any of its funds to issue permits or other authorization letters to vessels exceeding like size restrictions. The size limit restrictions, established by the Commission and later in several congressional bills, are larger than any of the vessels that landed herring in 1996 or 1997. No vessels larger than the restrictions have participated in the herring fishery in the past. (For vessels identified as having caught herring in 1997, the maximum LOA was 126 ft., the maximum horsepower was 2,100, and the maximum GRTs was 246.) The size limits will maintain the existing industry structure. This restriction would not have a negative impact on the small businesses in the herring fishery.

Because the herring resource is underutilized, there would be some room for growth in harvesting and processing capacity. The Council feels that a number of large vessels would rapidly reach the proposed limits on the TAC. The resultant rapid attainment of the TAC would reduce the supply of fresh herring to the bait and cannery markets. There is also the possibility that large catcher/processors would monopolize the resource.

The Council is also limiting processing by large, domestic vessels to an amount specified on an annual basis. These two restrictions comprise the preferred alternative of the Council and are intended to provide some control over the development of excess fishing capacity in the region, and to take into account the concerns of fishing communities and historic herring fishery participants.

One of the objectives of the FMP is to provide controlled opportunities for fishers in other fisheries in New England and the mid-Atlantic regions. Many fishers are facing additional restrictions in the groundfish, scallop, monkfish, dogfish, and whiting fisheries due to poor resource conditions. The ability to enter the herring fishery would provide an opportunity for them to shift their effort onto a robust resource until rebuilding plans in these fisheries can be accomplished. The number of vessels that can enter this fishery is dependent on each vessel's share of the resource. The limits on vessel size would encourage more small vessels to enter the fishery and harvest a share of the available TAC, ameliorating the impacts of restrictions in other fisheries.

For the first year of the FMP, the recommended specification for large at-sea domestic processors is 0 mt. This is a precautionary approach that would give the Council time to evaluate the impacts of the management program before introducing large domestic processors into the fishery. The proposed specification would minimize impacts on the small businesses in the fishery. Existing small businesses would compete within the existing industry structure, with established markets clearly identified. One possible negative impact of the proposed specification on small businesses is that it would limit the market available to existing markets, depriving small vessels of an additional venue (the large vessel) to sell their catch. This measure explicitly considers the concerns of those communities and small entities in the northeast region that are dependent on the herring fishing industry and the possible impacts that may result from the uncontrolled entry of large domestic processors. The ''no action'' alternative would allow large domestic vessels to enter the fishery unfettered. The most likely role would be as processing vessels. While the impacts of allowing such large domestic processors into the fishery are not clearly understood, they could result in displacement of shoreside processors that depend on herring and may limit the development of additional shoreside processing capacity.

One possible benefit of the ''no action'' alternative, however, is if large domestic processing vessels enter the fishery and hire local catcher vessels to supply them herring. The increased revenues from this activity could benefit small entities and communities suffering from reduced revenues caused by resource shortfalls and increasing regulation of the fishing industry. Some are concerned, however, that the companies that own these vessels may bring their own catcher vessels into the region. As a result, the benefits would then accrue to the regions that are less dependent on the fishing industry.

Impacts of Joint Venture Specifications and Restrictions

The FMP specifies zero TALFF, which would preclude directed foreign fishing and result in benefits from the fishery accruing to domestic fishers. The expansion of the herring fishery would require domestic fishers to develop markets and invest in the vessels and processing capability to enter those markets.

However, the FMP provides for foreign participation in the fishery in the EEZ through joint venture processing (just as the states provide for such participation through internal waters processing). In the EEZ, these vessels are permitted into the fishery only when it suits the needs of the U.S., and such vessels are limited to processing fish in excess of the capacity needed for domestic processors. The total allocations (DAP, JVPt, BT and the Reserve) in any one management area or subarea would not exceed the TAC set for that area or subarea during the fishing year. A figure of 40,000 mt is recommended for JVPt after reviewing recent foreign processing performance. While this level is lower than the 80,000 mt allocated by the Commission for the 1998/1999 IWP season, it is over three times higher than the highest actual combined JVP and IWP performance in the last 10 years and allows for substantial temporary participation by foreign vessels in the U.S. fishery. This would allow foreign vessels to purchase herring from U.S. harvesting vessels, providing an additional market for them. Not only would this benefit the small entities currently in the fishery, it could provide additional opportunities for some vessels to target herring rather than species that may be overfished. It would also allow those fishers that participate in mackerel joint ventures to sell herring when it is caught along with mackerel.

In the event of a closure to a directed herring fishery in any one area or subarea, BT, JVP and IWP (the Council and the Commission agree on the recommended allocation of JVPt to JVP and IWP) operations would cease to receive any herring caught from a closed area or subarea. A key element in the review of JV activities is the impact on domestic processing activity - specifically, on the east coast, shoreside processors (since there have not been any large domestic at-sea processors in east coast fisheries).

In recent years there has been little interest by foreign vessels to participate in herring joint ventures and the actual performance of herring JVs has been insignificant, occurring only in connection with mackerel JVs. (Confidentiality restrictions prevent listing actual JV herring catches in 1997.) The demand for herring JVs is directly linked to world herring prices, most notably herring prices from the North Sea herring fishery.

Impacts of Initial and Annual Specifications

The domestic Atlantic herring fishery has not been subject to limits on catch by a Federal FMP since 1982. Because of the lack of current permitting and reporting systems, there is some uncertainty in the current levels of fishing effort and the actual harvest of Atlantic herring. There is also uncertainty in the ability of U.S. fishers to develop new markets for the increased catch levels that are possible, and for U.S. processors to process increased catches of herring that may occur under this FMP.

These uncertainties make it difficult to predict exactly how the fishery would develop. The Council has adopted a precautionary approach to many elements of the management program in order to account for these uncertainties.

DAP is based on existing processing capacity with the addition of nearly 80,000 mt to account for the introduction of new capacity, possible misreporting in the bait fishery, and increases in processing by existing processors.

The amount allocated to BT is about 10 percent larger than the highest amount reported transferred to Canadian canneries in any of the last 10 years. These transfers are part of a traditional cross-border trade in raw herring that helps U.S. sardine canneries obtain herring during periods of low resource abundance in U.S. waters.

The zero amount specified for USAP would prevent large domestic processing vessels from entering the fishery in 1999. Concern has been expressed that this results in unfair treatment to such vessels, which could not participate in at-sea processing while large foreign vessels could (through JVs). The Council's initial recommendation to specify USAP at zero was because of a desire to maintain the status quo in the industry until the effectiveness of the FMP could be evaluated. By contrast to JVs, large domestic processing vessels would have a great deal of flexibility once allowed into the fishery. They could compete in the same markets as other processors without restraints. Once allowed into a fishery, there is a perception that they would have earned permanent ''rights'' to participate. The possible impacts of large at-sea processors in the Atlantic herring fishery are not clearly understood, arguing for a cautious approach to their introduction into the fishery. While the specification for USAP may be set at a level other than zero mt in the future, the Council's recommendation to allocate zero mt initially is within the Council's discretion.

Impacts of Transfers at Sea

Allowing a vessel to transfer herring at sea during a closure complicates the enforcement of the 2,000–lb (907.2–kg) trip/possession limit. A complete prohibition on all transfers, however, would unnecessarily restrict the lobster and tuna fisheries. Vessels in these fisheries frequently obtain fresh bait through transfers (sales) at-sea. Allowing these transfers thus benefits the small businesses that sell the herring and those small businesses who purchase it for bait (i.e., lobster and tuna fishers). Enabling these small entities to obtain fresh bait at sea minimizes their costs since they wouldn't have to travel into port for it. It also benefits them by assuring that the bait is of higher quality in that it is more likely to be fresh.

This measure would place some controls on transfers at-sea to prevent wide scale violations of the trip limit.

Disapproved Measures

On October 27, 1999, NMFS disapproved the proposed spawning area closures and the proposed scheme to restrict fishing to specific days based on the proportion of the TAC caught in a management area (mandatory days out provision). The reason for the disapproval of these measures is described elsewhere in this preamble. These measures are contained in the IRFA and supplement to the IRFA and, therefore, are also discussed in this classification section.

Impacts of Spawning Closures

At the time the Council prepared the IRFA, the Council determined that the proposed spawning closures were expected to have an impact on herring landings and revenues, subject to the ability of fishers to locate herring in other areas or at other times. The total impacts of these closures were estimated to be a reduction of 10,332 mt in herring landings and $1.1 million in revenues. The actual decline in landings and reduction in revenues due to the spawning closures was likely to be less, however. The displacement of effort to other areas, opening of a large area south of 42°30'N. latitude to fishing by the proposed action, and the interaction of the spawning closures with the

Management Area 1A TAC would have reduced the negative impacts on landings and revenues. Further, spawning closures were not established in Management Areas 2 and 3 because the Council wanted to promote interest in developing the offshore fishery.

The Council considered other spawning area closure alternatives. It originally considered four areas that, through complementary Commission action, may have extended to the shore. These proposed restrictions would not have allowed any directed fishing subject to the limitation on catch of spawning fish and would have created an offshore boundary, providing a limited opportunity for fishers to move into offshore areas. Small herring vessels in Maine ports would have been disadvantaged by this. Such vessels would have been at risk of losing their market, and may not have been able to regain it when the closed areas reopened. The expected result of the original Council proposal would have been the potential loss of all herring landed during the Commission's existing closures, which would have been mitigated by the opportunity of fishers to fish seaward of the closure boundaries. Also, fishers may have been able to harvest the herring after the closure - a delay in the catch, rather than a complete loss.

The preferred alternative differed from the above option significantly. All closure areas would have applied only to Federal waters. The closure area off Massachusetts and New Hampshire had been significantly reduced in size. The impact of this change would have significantly reduced the negative economic impacts of the spawning closures. By reducing the area covered by the closures, the impact of the closures on landings was expected to have been reduced. The action also proposed to open an area that had previously been limited to an incidental catch limit. While the amount of catch in this area cannot be predicted due to a lack of information on harvest rates and effort in this area, this should have resulted in higher catches of herring further reducing the economic impact of the closures. This would have significantly reduced the negative economic impacts of the spawning closures. In a qualitative sense, the proposed alternative should have also reduced impacts on smaller vessels, as it would have provided options to fish seaward of the boundary, in state waters, or in areas of Federal waters that remained opened, and would have reduced the necessity for any vessel to fish seaward of the closure boundaries.

The Council also considered a number of variations for determining the starting dates of the closures. These variations were predicated on the biological condition of spawning herring. While the economic impacts would not likely have differed significantly from the preferred alternative, this approach would have introduced uncertainty into the timing of the closures. The fixed date selected by the Council in the preferred alternative would have allowed vessels and dealers to plan fishing operations around known closure dates and was initially preferred by many in the industry. It also would have avoided the administrative costs necessary to operate a sampling program that would have been a required part of determining the closure dates.

Finally, the Council also considered the option of not establishing any spawning restrictions in Management Areas 1A or 1B. In the short term, landings and revenues would increase if this option were selected. Over a longer period, the practice of fishing on spawning aggregations in this intensely fished area would be expected to have a negative impact on the biological condition of the resource. Failure to provide protection during the spawning periods could result in the elimination of individual spawning components, even while remaining within overall mortality goals set by the TAC. This would result in either lower TACs to reduce effort on spawning fish, or, in the extreme, could damage the resource sufficiently so that fishing would have to be prohibited in the area. Either result would reduce revenues from this area. As vessels moved into other areas to find herring, operating costs would be expected to increase with the additional transit time offshore.

Impacts of Mandatory Days out of the Fishery

The Council determined that fishing effort would have been reduced as the TAC was approached by requiring vessels to take mandatory days out of the fishery. The number of days taken out of the fishery would have been determined by how close the catch was to approaching the TAC. This measure would have been expected to reduce catch rates as the TAC is approached. This would have helped prevent the TAC from being exceeded before the fishing year was over.

This measure also would have redistributed fishing effort to other areas. As the number of days out of the fishery increased, some vessels may have chosen to relocate to areas that remain open. The Council selected this measure over other alternatives because it would have minimized impacts on the industry while extending the season. It would have allowed fishing activity to continue unfettered in management areas where landings were at a lower level and were not approaching the TAC. This would have encouraged a shift in effort from areas with restrictions into other open areas, particularly when three or four days were closed to the directed fishery. Shifting effort would not have been without cost however. As fishing days were restricted, vessels would have incurred higher operating costs if they chose to fish in other areas further from their home port.

The major reason for this measure was to provide a supply of herring to the market for a longer period of time than if there were no controls put into place until the overall TAC was reached and the fishery was closed. For this reason, the Council rejected the no controls approach.

The Council also considered trip limits as an alternative, but rejected the idea because of concerns over discards, enforcement difficulties, and difficulty in creating an equitable system.

The Council also considered apportioning the TAC over a shorter time period - rather than an annual basis. *See Option 3 under 'Impacts of TAC Distribution', above*. It rejected this alternative because it would have resulted in unacceptable administrative costs to monitor the TAC.

Conclusion

The proposed regulations would allow increased landings of herring, the extent of which may depend more on market conditions than on the regulations. The FMP could, however, change fishing patterns, particularly in the GOM. The restrictive TAC in the inshore GOM could force fishing effort into other areas where harvest rates may not be as high, possibly increasing operating costs.

A copy of the IRFA and the Supplement to the IRFA are available from the Council (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection-of-information displays a currently valid OMB control number.

This proposed rule references foreign fishing vessel activity reports, which is a collection-of-information requirement subject to the PRA that was previously approved by OMB under control

number 0648–0075. These reports are estimated at 6 minutes/response.

This proposed rule also contains 12 new collection-of-information requirements subject to the PRA, which have been submitted to OMB for approval. The public reporting burden for each collection of information per response is indicated in parentheses in the following list of new requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding these reporting burden estimates or any other aspect of the collection of information, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

The new requirements are:

Open access Atlantic herring permits (30 minutes/response).

Operator permits (60 minutes/response).

Dealer permits (5 minutes/response(trip)).

Processor permits (5 minutes/response).

Vessel trip reports (5 minutes/response).

Interactive voice response system reports (4 minutes/response).

Dealer logbooks reports (2 minutes/response).

Annual processor reports (30 minutes/response).

Vessel monitoring system verification requirement (2 minutes/response).

Vessel monitoring system reports (5 seconds/response).

Vessel monitoring system installation (60 minutes/response).

Herring carrier exemption from VMS requirements authorization letter (2 minutes/response).

List of Subjects in 50 CFR Parts 600 and 648

Fisheries, Fishing, Foreign Vessels, Reporting and recordkeeping requirements.

Dated: February 23, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR parts 600 and 648 are proposed to be amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

§ 600.525 [Removed]

2. Remove § 600.525.

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.1, the first sentence of paragraph (a) is revised to read as follows:

§ 648.1 Purpose and scope.

(a) This part implements the fishery management plans (FMPs) for the Atlantic mackerel, squid, and butterfish fisheries (Atlantic mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Atlantic Sea Scallop FMP); the Atlantic surf clam and ocean quahog fisheries (Atlantic Surf Clam and Ocean Quahog FMP); the Northeast multispecies and monkfish fisheries ((NE Multispecies FMP) and (Monkfish FMP)); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); the Atlantic bluefish fishery (Atlantic Bluefish FMP); the spiny dogfish fishery (Spiny Dogfish FMP); and the Atlantic herring fishery (Atlantic Herring FMP). * * *

* * * * *

3. In § 648.2, the definitions for ''Council'' and ''Vessel Monitoring System'' are revised and the definitions for ''Atlantic herring'', ''Atlantic herring carrier'', ''Atlantic herring dealer'', ''Atlantic herring processor'', ''Border transfer'', ''Horsepower'', ''IVR System'', ''JVPt'', ''Processing'', and ''U.S. at-sea-processing'' are added alphabetically to read as follows:

§ 648.2 Definitions.

* * * * *

Atlantic herring means *Clupea harengus.*

Atlantic herring carrier means a vessel with an Atlantic herring permit that does not have any gear on board capable of catching or processing herring and that has on board a letter of authorization from the Regional Administrator to transport herring caught by another fishing vessel.

Atlantic herring dealer means:

(1) A person owning or operating a shore-based pump that uses such pump to offload any Atlantic herring from a vessel with a Federal Atlantic herring permit; or

(2) A person who purchases any herring directly from a vessel with a Federal Atlantic herring permit that is offloaded from the vessel other than with a shore-based pump for purposes other than for the purchaser's own use as bait; or

(3) A person owning or operating a processing vessel that receives any Atlantic herring from a vessel with a Federal Atlantic herring permit whether at sea or in port.

Atlantic herring processor means a person who receives unprocessed Atlantic herring from a fishing vessel with a Federal Atlantic herring permit or an Atlantic herring dealer for the purposes of processing; or the owner or operator of a vessel that processes Atlantic herring; or an Atlantic herring dealer who purchases Atlantic herring for resale as bait.

* * * * *

Border transfer (BT) means the amount of herring specified pursuant to § 648.200 that may be transferred to a Canadian transport vessel that is permitted under the provisions of Pub. L. 104–297, section 105(e).

* * * * *

Council means the New England Fishery Management Council (NEFMC) for the Atlantic herring, Atlantic sea scallop, and the NE multispecies fisheries, and the Mid-Atlantic Fishery Management Council (MAFMC) for the Atlantic mackerel, squid, and butterfish; the Atlantic surf clam and ocean quahog; the summer flounder, scup, and black sea bass fisheries; and the Atlantic bluefish fishery.

* * * * *

Horsepower, with respect to the Atlantic herring fishery, means the total maximum continuous shaft horsepower of all a vessel's main propulsion machinery.

* * * * *

IVR System means the Interactive Voice Response reporting system established by the Regional Administrator for the purpose of monitoring harvest levels for certain species.

* * * * *

JVPt, with respect to the Atlantic herring fishery, means the specification of the total amount of herring available

for joint venture processing by foreign vessels in the EEZ and state waters.

* * * * *

Processing, or to process, in the Atlantic herring fishery, means the preparation, other than icing, bleeding, heading or gutting, of Atlantic herring to render it suitable for human consumption, bait, commercial uses, industrial uses, or long-term storage, including but not limited to cooking, canning, roe extraction, smoking, salting, drying, freezing, or rendering into meal or oil.

* * * * *

U.S. at-sea processing (USAP), with respect to the Atlantic herring fishery, means the specification, pursuant to § 648.200, of the amount of herring that can be received from, or processed by, U.S. vessels issued an Atlantic herring processing permit as described in § 648.4(a)(10)(ii).

* * * * *

Vessel Monitoring System (VMS) means a vessel monitoring system or VMS unit as set forth in § 648.9 and approved by NMFS for use on Atlantic sea scallop, NE multispecies, monkfish, and Atlantic herring vessels, as required by this part.

* * * * *

4. In § 648.4, paragraphs (a)(10) and (c)(2)(vi) are added to read as follows:

§ 648.4 Vessel and individual commercial permits.

(a) * * *

(10) *Atlantic herring vessels.* (i) *Atlantic herring permit.* (A) Except as provided herein, any vessel of the United States must have been issued and have on board a valid Atlantic herring permit to fish for, catch, possess, land, or process Atlantic herring in or from the EEZ. This requirement does not apply to the following:

(*1*) A vessel that possesses herring solely for its own use as bait providing the vessel does not have purse seine, mid-water trawl, pelagic gillnet, sink gillnet, or bottom trawl gear on board; or

(*2*) A skiff or other similar craft used exclusively to deploy the net in a purse seine operation during a fishing trip of a vessel that is duly permitted under this part.

(B) *Eligibility.* A vessel of the United States is eligible for and may be issued an Atlantic herring permit to fish for, catch, take, harvest, and possess Atlantic herring in or from the EEZ unless the vessel is ≥ 165 feet (50.3 m) in length overall (LOA), or > 750 GRT (680.4 mt), or the vessel engine is > 3,000 horsepower.

(ii) *Atlantic herring processing permit.* A vessel of the United States that is > 165 feet (50.3 m) LOA, or > 750 GRT (680.4 mt) is eligible to obtain an Atlantic herring processing permit to receive and process Atlantic herring subject to the U.S. at-sea processing (USAP) allocation published by the Regional Administrator pursuant to § 648.200. Such vessel may not receive or process Atlantic herring unless the vessel has been issued and has on board an Atlantic herring processing permit.

(iii) *Atlantic herring carrier vessels - letter of authorization.* An Atlantic herring carrier vessel permitted under paragraph (a)(10)(i)(A) of this section must have been issued and have on board the vessel a letter of authorization to transport Atlantic herring caught by another permitted fishing vessel. The letter of authorization exempts such vessel from the VMS and IVR reporting requirements as specified in subpart K, except as otherwise required by this part. An Atlantic herring carrier vessel may request and obtain a letter of authorization from the Regional Administrator.

(iv) *Change in ownership.* See paragraph (a)(1)(i)(D) of this section.

* * * * *

(c) * * *

(2) * * *

(vi) An application for an Atlantic herring permit must also contain the following information:

(A) If the vessel operator caught > 500 mt of Atlantic herring in the previous fishing year, a statement so stating;

(B) If the vessel operator intends to catch > 500 mt of Atlantic herring in the current fishing year, a statement so stating;

(C) If the vessel operator either caught > 500 mt of Atlantic herring in the previous fishing year, or intends to catch > 500 mt of Atlantic herring in the current fishing year, a copy of a vendor installation receipt from a NMFS-approved VMS vendor, as described in § 648.9.

* * * * *

5. In § 648.5, the first sentence of paragraph (a) is revised to read as follows:

§ 648.5 Operator permits.

(a) *General.* Any operator of a vessel fishing for or possessing Atlantic sea scallops in excess of 40 lb (18.1 kg), NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic mackerel, squid, butterfish, scup, or black sea bass, harvested in or from the EEZ, or issued a permit, including carrier and processing permits, for these species under this part, must have been issued under this section, and carry on board, a valid operator permit. * * *

* * * * *

6. In § 648.6, paragraph (a) is revised to read as follows:

§ 648.6 Dealer/processor permits.

(a) *General.* All NE multispecies, monkfish, Atlantic herring, Atlantic sea scallop, spiny dogfish, summer flounder, surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, and black sea bass dealers, surf clam and ocean quahog processors, and Atlantic herring processors or purchasers as described in § 648.2, must have been issued under this section, and have in their possession, a valid permit or permits for these species. A person who meets the requirements of both the dealer and processor definitions of any of the aforementioned species fishery regulations may need to obtain both a dealer and a processor permit, consistent with the requirements of that particular species fishery regulations.

* * * * *

7. In § 648.7, the heading of paragraph (b)(1)(i) is removed and the first sentence is revised, and the first sentence of paragraphs (a)(1)(i), (a)(2)(i), (a)(3)(i), and paragraph (f)(3) are revised and new paragraphs (a)(3)(iii) and are added, to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

(a) * * *

(1) * * *

(i) All dealers issued a dealer permit under this part, with the exception of those utilizing the surf clam or ocean quahog dealer permit, must provide: Dealer name and mailing address; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever is applicable) of vessels from which fish are landed or received; trip identifier for trip from which fish are landed or received; dates of purchases; pounds by species (by market category, if applicable); price per pound by species (by market category, if applicable) or total value by species (by market category, if applicable); port landed; signature of person supplying the information; and any other information deemed necessary by the Regional Administrator. * * *

* * * * *

(2) * * *

(i) Federally permitted dealers, other than Atlantic herring dealers, purchasing quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section must submit, within the time period specified in paragraph (f) of this section, the following information, and any other

information required by the Regional Administrator, to the Regional Administrator or to an official designee, via the IVR system established by the Regional Administrator: Dealer permit number; dealer code; pounds purchased, by species, other than Atlantic herring; reporting week in which species were purchased; and state of landing for each species purchased. * * *

* * * * *

(3) * * *

(i) All dealers issued a dealer permit under this part, with the exception of those processing only surf clams or ocean quahogs, must complete the ''Employment Data'' section of the Annual Processed Products Report; completion of the other sections of that form is voluntary. * * *

* * * * *

(iii) Atlantic herring processors including processing vessels must complete and submit all sections of the Annual Processed Products Report.

(b) * * *

(1) * * *

(i) The owner or operator of any vessel issued a permit under this part must maintain on board the vessel and submit an accurate daily fishing log report for all fishing trips, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. * * *

* * * * *

(iii) The owner or operator of a vessel described here must report catches (retained and discarded) of herring each week to an IVR system. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, reporting week in which species are caught, pounds retained, pounds discarded, management area fished, and pounds of herring caught in each management area for the previous week. Weekly IVR system reports must be submitted via the IVR system by midnight, Eastern time, each Tuesday for the previous week. Reports are required even if herring caught during the week has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of § 648.7.

(A) The owner or operator of any vessel issued a permit for Atlantic herring that is required by § 648.205 to have a VMS unit on board must submit an IVR report each week (including weeks when no herring is caught) unless exempted from this requirement by the Regional Administrator.

(B) An owner or operator of any vessel issued a permit for Atlantic herring that is not required by § 648.205 to have a VMS unit on board, or any vessel that catches herring in or from the EEZ, but catches ≥ 2,000 lb (907.2 kg) of Atlantic herring on any trip in a week must submit an IVR report for that week as required by the Regional Administrator.

(C) IVR reports are not required from Atlantic herring carrier vessels.

* * * * *

(f) * * *

(3) *At-sea purchasers, receivers, or processors.* All persons, except persons on Atlantic herring carrier vessels, purchasing, receiving, or processing any Atlantic herring, summer flounder, Atlantic mackerel, squid, butterfish, scup, or black sea bass at sea for landing at any port of the United States must submit information identical to that required by paragraphs (a)(1) or (a)(2) of this section, as applicable, and provide those reports to the Regional Administrator or designee on the same frequency basis.

* * * * *

8. In § 648.9, paragraphs (c)(1), (c)(2)(i) and (f) are revised to read as follows:

§ 648.9 VMS requirements.

* * * * *

(c) * * *

(1) Except as provided in paragraph (c)(2) of this section, all required VMS units must transmit a signal indicating the vessel's accurate position every hour, 24 hours a day, throughout the year.

(2) *Power-down exemption.* (i) Any vessel that is required to have on board a fully operational VMS unit at all times, as specified in paragraph (b)(2) of this section, is exempt from this requirement provided:

(A) The vessel will be continuously out of the water for more than 72 consecutive hours; and

(B) A valid letter of exemption obtained pursuant to paragraph (c)(2)(ii) of this section has been issued to the vessel and is on board the vessel, and the vessel is in compliance with all conditions and requirements of said letter.

(C) Any VMS-equipped vessel with an Atlantic herring permit, unless required by other regulations to have on board a fully operational VMS unit at all times, need not transmit a signal when the vessel is in port.

* * * * *

(f) *Access.* As a condition to obtaining a limited access scallop or multispecies permit, or an Atlantic herring permit, all vessel owners must allow NMFS, the USCG, and their authorized officers or designees access to the vessel's DAS, if applicable, and location data obtained from its VMS unit, if required, at the time of or after its transmission to the vendor or receiver, as the case may be.

* * * * *

9. In § 648.11, the first sentence of paragraph (a) is revised to read as follows:

§ 648.11 At-sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel holding any of the following permits to carry a NMFS-approved sea sampler/observer: Atlantic sea scallop, Atlantic herring, NE multispecies, monkfish, Atlantic mackerel, spiny dogfish, squid, or butterfish, scup, black sea bass, or a moratorium permit for summer flounder. * * *

* * * * *

10. In § 648.12, the first sentence of the introductory text is revised to read as follows:

§ 648.12 Experimental fishing.

The Regional Administrator may exempt any person or vessel from the requirements of subparts A (General Provisions), B (Atlantic Mackerel, Squid, and Butterfish Fisheries), D (Atlantic Sea Scallop Fishery), E (Atlantic Surf Clam and Ocean Quahog Fisheries), F (NE Multispecies and Monkfish Fisheries), G (Summer Flounder Fishery), H (Scup Fishery), I (Black Sea Bass Fishery), J (Atlantic Bluefish Fishery), K (Atlantic Herring Fishery), or L (Spiny Dogfish Fishery) of this part for the conduct of experimental fishing beneficial to the management of the resources or fishery managed under that subpart. * * *

* * * * *

11. In § 648.13, paragraph (e) is added to read as follows:

§ 648.13 Transfers at sea.

* * * * *

(e) *Atlantic herring.* Any person or vessel is prohibited from transferring, or receiving, or attempting to transfer or receive any Atlantic herring taken from the EEZ, and any vessel issued an Atlantic herring permit is prohibited from transferring, receiving, or attempting to transfer or receive, Atlantic herring unless the person or vessel complies with the following:

(1) The transferring and receiving vessel has been issued a valid Atlantic herring permit and/or other applicable authorization, such as a letter of authorization from the Regional Administrator, to transfer or receive herring.

(2) The vessel does not transfer to a U.S. vessel, and a U.S. vessel does not receive, > 2,000 lb (907.2 kg) of herring per day in or from a management area closed to directing fishing for Atlantic herring.

(3) The vessel does not transfer to an IWP or Joint Venture vessel herring in or from an area closed to directed fishing for Atlantic herring.

(4) The vessel does not transfer Atlantic herring to a Canadian transshipment vessel that is permitted in accordance with Pub. L. 104–297 after the amount of herring transshipped equals the amount of the BT specified pursuant to § 648.200.

12. In § 648.14, paragraph (a)(103) is revised, and paragraphs (x)(9) and (bb) are added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(103) Sell, barter, trade, or transfer, or attempt to sell, barter, trade, or transfer, other than solely for transport, any Atlantic herring, multispecies, or monkfish, unless the dealer or transferee has a dealer permit issued under § 648.6.

* * * * *

(x) * * *

(9) *Atlantic herring.* All Atlantic herring retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested from the EEZ, unless the preponderance of all submitted evidence demonstrates that such Atlantic herring were harvested by a vessel fishing exclusively in state waters.

* * * * *

(bb) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, it is unlawful for any person to do any of the following:

(1) Fish for, possess, retain or land Atlantic herring, unless:

(i) The Atlantic herring are being fished for or were harvested in or from the EEZ by a vessel holding a valid Atlantic herring permit under this part, and the operator on board such vessel has been issued an operator permit that is on board the vessel; or

(ii) The Atlantic herring were harvested by a vessel not issued an Atlantic herring permit that was fishing exclusively in state waters; or

(iii) The Atlantic herring were harvested in or from the EEZ by a vessel engaged in recreational fishing; or

(iv) Unless otherwise specified in accordance with § 648.17.

(2) Operate, or act as an operator of, a vessel with an Atlantic herring permit, or a vessel fishing for or possessing Atlantic herring in or from the EEZ, unless the operator has been issued, and is in possession of, a valid operator permit.

(3) Purchase, possess, receive, or attempt to purchase, possess, or receive, as a dealer, or in the capacity of a dealer, Atlantic herring that were harvested in or from the EEZ, without having been issued, and in possession of, a valid Atlantic herring dealer permit.

(4) Purchase, possess, receive, or attempt to purchase, possess, or receive, as a processor, or in the capacity of a processor, Atlantic herring from a fishing vessel with an Atlantic herring permit or from a dealer with an Atlantic herring dealer permit, without having been issued, and in possession of, a valid Atlantic herring processor permit.

(5) Sell, barter, trade, or otherwise transfer, or attempt to sell, barter, trade, or otherwise transfer, for a commercial purpose, any Atlantic herring, unless the vessel has been issued an Atlantic herring permit, or unless the Atlantic herring were harvested by a vessel without an Atlantic herring permit that fished exclusively in state waters.

(6) Purchase, possess, or receive, for a commercial purpose, or attempt to purchase or receive, for a commercial purpose, Atlantic herring caught by a vessel without an Atlantic herring permit unless the Atlantic herring were harvested by a vessel without an Atlantic herring permit that fished exclusively in state waters.

(7) Possess, transfer, receive, or sell, or attempt to transfer, receive, or sell > 2,000 lb (907.2 kg) of Atlantic herring per trip, or land, or attempt to land > 2,000 lb (907.2 kg) of Atlantic herring per day in or from an area of the EEZ subject to restrictions pursuant to § 648.202(a).

(8) Possess, transfer, receive, or sell, or attempt to transfer, receive, or sell > 2,000 lb (907.2 kg) of Atlantic herring per trip, or land, or attempt to land > 2,000 lb (907.2 kg) of Atlantic herring per day in or from state waters subject to restrictions pursuant to § 648.202(a), if the vessel has been issued an Atlantic herring permit.

(9) Transfer or attempt to transfer Atlantic herring to a Canadian transshipment vessel that is permitted in accordance with Pub. L. 104–297 after the amount of herring transshipped equals the amount of the BT specified pursuant to § 648.200.

(10) Transit an area of the EEZ that is subject to a closure to directed fishing for Atlantic herring or restrictions pursuant to § 648.202(a) with > 2,000 lb (907.2 kg) of herring on board unless all fishing gear is stowed as specified by § 648.23(b).

(11) Catch, take, or harvest Atlantic herring with a U.S. vessel that exceeds the size limits specified in § 648.203.

(12) Process Atlantic herring in excess of the specification of USAP with a U.S. vessel that exceeds the size limits specified in § 648.203(b).

(13) Discard herring carcasses at sea after removing the roe.

(14) Catch, take, or harvest Atlantic herring for roe in excess of any allowed limit that may be established pursuant to § 648.204(b).

(15) Catch, take, or harvest Atlantic herring unless equipped with an operable VMS unit if a vessel caught > 500 mt of Atlantic herring in the previous fishing year, or intends to catch > 500 mt of Atlantic herring in the current fishing year, as required by § 648.205(a).

(16) Catch, take, or harvest > 500 mt Atlantic herring during the fishing year unless equipped with an operable VMS unit as required by § 648.205(a).

(17) Receive Atlantic herring in or from the EEZ solely for transport unless issued a letter of authorization from the Regional Administrator.

(18) Fail to comply with any of the requirements of a letter of authorization from the Regional Administrator.

13. Subpart K is added to read as follows:

Subpart K—Management Measures for the Atlantic Herring Fishery

Sec.

648.200 Specifications.
648.201 Management areas.
648.202 Total allowable catch (TAC) controls.
648.203 Vessel size/horsepower limits.
648.204 Herring roe restrictions.
648.205 VMS requirements.
648.206 Framework specifications.

§ 648.200 Specifications.

(a) The Atlantic Herring Plan Development Team (PDT) shall meet at least annually with the Atlantic States Marine Fisheries Commission's (Commission) Atlantic Herring Plan Review Team (PRT) to develop and recommend the following specifications for consideration by the New England Fishery Management Council's Atlantic Herring Oversight Committee: optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), total foreign processing (JVPt), joint venture processing (JVP), internal waters processing (IWP), U.S. at-sea processing (USAP), border transfer (BT), total allowable level of foreign fishing (TALFF), and reserve (if any). The PDT and PRT shall also recommend the total

allowable catch (TAC) for each management area and sub-area. Recommended specifications shall be presented to the New England Fishery Management Council (Council) at its July meeting.

(b) *Guidelines.* As the basis for its recommendations under paragraph (a) of this section, the PDT shall review available data pertaining to: Commercial and recreational catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling and trawl survey data or, if sea sampling data are unavailable, length frequency information from trawl surveys; impact of other fisheries on herring mortality, and any other relevant information. The specifications recommended pursuant to paragraph (a) of this section must be consistent with the following:

(1) OY must be equal to or less than the allowable biological catch (ABC) minus an estimate of the expected Canadian New Brunswick (NB) fixed gear and Georges Bank (GB) herring catch, which shall not exceed 20,000 mt for the NB fixed gear harvest and 10,000 mt for the Canadian GB harvest.

(2) OY shall not exceed maximum sustainable yield (MSY), unless an OY that exceeds MSY in a specific year is consistent with a control rule that ensures the achievement of MSY and OY on a continuing basis; however, OY shall not exceed MSY prior to the 2001 fishing year.

(3) Factors to be considered in assigning an amount, if any, to the reserve shall include:

(i) Uncertainty and variability in the estimates of stock size and ABC;

(ii) Uncertainty in the estimates of Canadian harvest from the coastal stock complex;

(iii) The requirement to insure the availability of herring to provide controlled opportunities for vessels in other fisheries in the mid-Atlantic and New England;

(iv) Excess U.S. harvesting capacity available to enter the herring fishery;

(v) Total world export potential by herring producer countries;

(vi) Total world import demand by herring consuming countries;

(vii) U.S. export potential based on expected U.S. harvests, expected U.S. consumption, relative prices, exchange rates, and foreign trade barriers;

(viii) Increased/decreased revenues to U.S. harvesters (with/without joint ventures);

(ix) Increased/decreased revenues to U.S. processors and exporters;

(x) Increased/decreased U.S. processing productivity

(4) Adjustments to TALFF, if any, will be made based on updated information relating to status of stocks, estimated and actual performance of domestic and foreign fleets, and other relevant factors.

(c) The Atlantic Herring Oversight Committee shall review the recommendations of the PDT and shall consult with the Commission's Herring Section. Based on these recommendations and any public comment received, the Herring Oversight Committee shall recommend to the Council appropriate specifications. The Council shall review these recommendations and, after considering public comment, shall recommend appropriate specifications to NMFS. NMFS shall review the recommendations, consider any comments received from the Commission and, on or about September 15, shall publish notification in the **Federal Register** proposing specifications and providing a 30-day public comment period. If the proposed specifications differ from those recommended by the Council, the reasons for any differences shall be clearly stated and the revised specifications must satisfy the criteria set forth in this section.

(d) On or about November 1 of each year, NMFS shall make a final determination concerning the specifications for Atlantic herring. Notification of the final specifications and responses to public comments shall be published in the **Federal Register**. If the final specification amounts differ from those recommended by the Council, the reason(s) for the difference(s) must be clearly stated and the revised specifications must be consistent with the criteria set forth in paragraph (b) of this section. The previous year's specifications shall remain effective unless revised through the specification process. NMFS shall issue notification in the **Federal Register** if the previous year's specifications will not be changed.

(e) *In-season adjustments.* The specifications and TACs established pursuant to this section may be adjusted by NMFS, after consulting with the Council, during the fishing year by publishing notification in the **Federal Register** stating the reasons for such action and providing an opportunity for prior public comment. Any adjustments must be consistent with the Atlantic Herring FMP objectives and other FMP provisions.

(f) If a total allowable catch reserve (TAC reserve) is specified for an area, NMFS may make any or all of that TAC reserve available to fishers after consulting with the Council. NMFS shall propose any release of the TAC reserve in the **Federal Register** and provide an opportunity for public comment. After considering any comments received, any release of the TAC reserve shall be announced through notification in the **Federal Register**.

§ 648.201 Management areas.

(a) Three management areas, which may have different management measures, are established for the Atlantic herring fishery. Management Area 1 shall be subdivided into inshore and offshore sub-areas. The management areas are defined as follows:

(1) *Management Area 1 (GOM)*: All U.S. waters of the GOM north of a line extending from the eastern shore of Monomoy Island at 41° 35' N. lat. eastward to a point at 41° 35' N. lat., 69° 00' W. long., thence northeasterly to a point along the Hague Line at 42° 53'14'' N. lat., 67° 44'35'' W. long., thence northerly along the Hague Line to the U.S.-Canadian border, to include state and Federal waters adjacent to the States of Maine, New Hampshire, and Massachusetts. Management Area 1 is divided into Area 1A (inshore) and Area 1B (offshore). This line identifies inshore fishing grounds that have supported most of the catch to date. The line dividing these areas is described by the following coordinates:

Point N. Latitude	W. Longitude
.....	70° 00' at Cape Cod shoreline.
42° 38.4'	70° 00'.
42° 53'	69° 40'.
43° 12'	69° 00'.
43° 40'	68° 00'.

Point N. Latitude	W. Longitude
43° 58' ..... (the U.S.-Canada maritime Boundary)[1]	67° 22'.

[1] Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

(2) *Management Area 2 (South Coastal Area)*: All waters west of 69°00' W. long. and south of 41°35' N. lat., to include state and Federal waters adjacent to the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina.

(3) *Management Area 3 (Georges Bank)*: All U.S. waters east of 69°00' W. long. and southeast of the line that runs from a point at 69°00' W. long. and 41°35' N. lat., northeasterly to the Hague Line at 67°44'35'' W. long. and 42°53'14'' N. lat.

(b) [Reserved]

§ 648.202 Total allowable catch (TAC) controls.

(a) If NMFS determines that catch will reach or exceed 95 percent of the TAC in a management area before the end of the fishing year, NMFS shall prohibit a vessel, beginning the date the catch is projected to reach 95 percent of the TAC, from fishing for, possessing, catching, transferring, or landing > 2,000 lb (907.2 kg) of Atlantic herring per trip and/or > 2,000 lb (907.2 kg) of Atlantic herring per day in such area pursuant to paragraph (d) of this section, except as provided in paragraph (c) of this section. These limits shall be enforced based on a calendar day.

(b) NMFS may raise the percent of the TAC that triggers imposition of the 2,000 lb (907.2 kg) limit specified in paragraph (a) of this section through the annual specification process described in § 648.200. Any lowering of the percent of the TAC that triggers the 2,000 lb (907.2 kg) limit specified in paragraph (a) of this section must be accomplished through the framework adjustment or amendment processes.

(c) A vessel may transit an area that is limited to the 2,000–lb (907.2–kg) limit specified in paragraph (a) of this section with > 2,000 lb (907.2 kg) of herring on board providing all fishing gear is stowed and not available for immediate use as required by § 648.23(b).

(d) NMFS shall implement fishing restrictions as specified in paragraph (a) of this section by publication of a notification in the **Federal Register**, without further opportunity for public comment.

§ 648.203 Vessel size/horsepower limits.

(a) A U.S. vessel issued an Atlantic herring permit must not exceed the specifications contained in § 48.4(a)(10)(i)(B) to catch, take, or harvest Atlantic herring. If any such vessel exceeds such specifications, its permit automatically becomes invalid and the vessel may not catch, take, or harvest Atlantic herring, as applicable, in or from the EEZ.

(b) A U.S. vessel issued an Atlantic herring processor permit may receive and process herring providing such vessel is ≥ 165 feet (50.3 m) in length overall, and ≥ 750 GRT (680.4 mt). A U.S. vessel that is > 165 feet (50.3 m) in length overall, or > 750 GRT (680.4 mt), may only receive and process herring provided that the vessel is issued an ''Atlantic herring processor permit'' described in § 648.4(a)(10)(ii) and that the total amount of herring received or processed by such vessel does not exceed the SAP established in accordance with § 648.200.

§ 648.204 Herring roe restrictions.

(a) *Retention of herring roe*. Herring may be processed for roe provided that the carcasses of the herring are not discarded.

(b) *Limits on the harvest of herring for roe*. The Council may recommend to NMFS a limit on the amount of herring that may be harvested for roe to be implemented by framework adjustment in accordance with § 648.206.

§ 648.205 VMS requirements.

(a) Except for Atlantic herring carrier vessels, the owner or operator of any vessel issued an Atlantic herring permit that caught or landed > 500 mt of Atlantic herring in the previous fishing year, or intends to catch or land, or catches or lands > 500 mt of Atlantic herring in the current fishing year, must have an operable VMS unit installed on board that meets the requirements of § 648.9.

(b) A vessel owner or operator, except an owner or operator of an Atlantic herring carrier vessel, who intends to catch and land > 500 mt of Atlantic herring must declare such intention to the Regional Administrator prior to obtaining an Atlantic herring fishing permit for the fishing year. The VMS unit must be certified, installed on board, and operable before the vessel may begin fishing.

(c) Except for Atlantic herring carrier vessels, the owner or operator of a vessel cannot land > 500 mt of Atlantic herring during a fishing year unless it has complied with § 648.205(b).

§ 648.206 Framework specifications.

(a) *Annual review*. The Herring PDT, in consultation with the Commission's PRT, shall review the status of the stock and the fishery. The PDT shall review available data pertaining to commercial and recreational catches, current estimates of fishing mortality, stock status, estimates of recruitment, virtual population analysis, and other estimates of stock size, sea sampling and trawl survey data or, if sea sampling data are unavailable, length frequency information from trawl surveys, the impact of other fisheries on herring mortality, and any other relevant information. Based on this review, the PDT shall report to the Council's Herring Oversight Committee no later than July, any necessary adjustments to the management measures and recommendations for the Atlantic herring annual specifications. The PDT, in consultation with the PRT, shall recommend the specifications, as well as an estimated TAC, as required by § 648.200, for the following fishing year.

(b) Based on these recommendations, the Herring Oversight Committee shall further recommend to the Council any measures necessary to insure that the annual specifications shall not be exceeded. The Council shall review these recommendations and any public comment received and, after consulting with the Commission, shall recommend appropriate specifications to NMFS, as described in § 648.200. Any suggested revisions to management measures may be implemented through the framework process or through an amendment to the FMP.

(c) *Framework adjustment process*. In response to the annual review or at any other time, the Council may initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Atlantic herring FMP, or to address gear conflicts

as defined under § 600.10 of this chapter.

(1) *Adjustment process.* After a management action has been initiated, the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council may delegate authority to the Herring Oversight Committee to conduct an initial review of the options being considered. The oversight committee shall review the options and relevant information, consider public comment, and make a recommendation to the Council.

(2) After the first framework meeting, the Council may refer the issue back to the Herring Oversight Committee for further consideration, make adjustments to the measures that were proposed, or approve of the measures and begin developing the necessary documents to support the framework adjustments. If the Council approves the proposed framework adjustments, the Council shall identify, at this meeting, a preferred alternative and/or identify the possible alternatives.

(3) A framework document shall be prepared that discusses and shows the impacts of the alternatives. It shall be available to the public prior to the second or final framework meeting.

(4) After developing management actions and receiving public testimony, the Council shall make a recommendation to NMFS. The Council's recommendation must include supporting rationale and, if changes to the management measures are recommended, an analysis of impacts and a recommendation to NMFS on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, the Council must consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures.

(iii) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts.

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(5) *Action by NMFS.* If the Council's recommendation to NMFS includes adjustments or additions to management measures, after reviewing the Council's recommendation and supporting information NMFS may:

(i) Concur with the Council's recommended management measures and determine that the recommended management measures should be published as a final rule in the **Federal Register** based on the factors specified in paragraphs (c)(4)(i), (ii), (iii) and (iv) of this section.

(ii) Concur with the Council's recommendation and determine that the recommended management measures should be first published as a proposed rule in the **Federal Register**. After additional public comment, if NMFS concurs with the Council's recommendation, the measures shall be issued as a final rule in the **Federal Register**.

(iii) If NMFS does not concur, the Council shall be notified in writing of the reasons for the non-concurrence.

(d) *Possible framework adjustment measures.* Measures that may be changed or implemented through framework action include:

(1) Management area boundaries or additional management areas;

(2) Size, timing, or location of new or existing spawning area closures;

(3) Closed areas other than a spawning closures;

(4) Restrictions in the amount of fishing time;

(5) A days-at-sea system;

(6) Adjustments to specifications;

(7) Adjustments to the Canadian catch deducted when determining specifications;

(8) Distribution of the TAC;

(9) Gear restrictions (such as mesh size, etc.) or requirements (such as bycatch-reduction devices, etc.);

(10) Vessel size or horsepower restrictions;

(11) Closed seasons;

(12) Minimum fish size;

(13) Trip limits;

(14) Seasonal, area, or industry sector quotas;

(15) Measures to describe and identify essential fish habitat (EFH), fishing gear management measures to protect EFH, and designation of habitat areas of particular concern within EFH;

(16) Measures to facilitate aquaculture, such as minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones, and any other measures included in the FMP;

(17) Changes to the overfishing definition;

(18) Vessel monitoring system requirements;

(19) Limits or restrictions on the harvest of herring for specific uses;

(20) Quota monitoring tools, such as vessel, operator, or dealer reporting requirements;

(21) Permit and vessel upgrading restrictions;

(22) Implementation of measures to reduce gear conflicts, such as mandatory monitoring of a radio channel by fishing vessels, gear location reporting by fixed gear fishermen, mandatory plotting of gear by mobile fishermen, standards of operation when conflict occurs, fixed gear marking or setting practices; gear restrictions for certain areas, vessel monitoring systems, restrictions on the maximum number of fishing vessels, and special permitting conditions;

(23) Limited entry or controlled access system;

(24) Specification of the amount of herring to be used for roe; and

(25) Any other measure currently included in the FMP.

(e) *Emergency action.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

[FR Doc. 00–4913 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 022500C]

RIN 0648–AM29

Fisheries of the Exclusive Economic Zone Off Alaska; Rebuilding Overfished Fisheries

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

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

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted for Secretarial review Amendment 11 to the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs

(FMP). This amendment is necessary to implement a rebuilding plan to rebuild the overfished stock of Bering Sea Tanner crab. This action is intended to ensure that conservation and management measures continue to be based upon the best scientific information available and is intended to advance the Council's ability to achieve, on a continuing basis, the optimum yield from fisheries under its authority.

DATES: Comments on the amendment must be submitted on or before May 8, 2000.

ADDRESSES: Comments may be submitted to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK 99801.

Copies of Amendment 11 to the FMP, and the Environmental Assessment prepared for the amendment are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907-586-7228 or gretchen.harrington@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS declared the Bering Sea stock of Tanner (*Chionoecetes bairdi*) crab overfished on March 3, 1999, because the spawning stock biomass was below the minimum stock size threshold defined in Amendment 7 to the FMP (64 FR 11390). Amendment 7 specified objective and measurable criteria for identifying when all of the crab fisheries covered by the FMP are overfished or when overfishing is occurring. NMFS notified the Council once NMFS determined that the stock was overfished (64 FR 15308, March 31, 1999). The Council then took action to develop a rebuilding plan within 1 year. Amendment 11, the rebuilding plan, is an FMP amendment designed to accomplish the purposes outlined in the national standard guidelines to rebuild the overfished stock. Furthermore, Amendment 11 specifies a time period for rebuilding the stock intended to satisfy the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The rebuilding plan approved by the Council in October 1999 contains the following three components to improve the status of this stock: A harvest strategy, bycatch control measures, and habitat protection measures. The rebuilding plan is estimated to allow the Bering Sea Tanner crab stock to rebuild, with a 50 percent probability, in 10 years. The stock will be considered ''0rebuilt'' when the stock reaches the maximum sustainable yield stock size level in 2 consecutive years. The revised harvest strategy should result in more spawning biomass, because more larger male crab would be conserved and fewer juveniles and females would die due to discarding. This higher spawning biomass would be expected to produce good year-classes when environmental conditions are favorable. Protection of habitat and reduction of bycatch will reduce mortality on juvenile crabs, thus allowing a higher percentage of each year-class to contribute to spawning (and future landings).

The Council prepared an Environmental Assessment (EA) for Amendment 11 that describes the management background, the purpose and need for action, the management alternatives, and the environmental and the socio-economic impacts of the alternatives. A copy of the EA can be obtained from the Council (see **ADDRESSES**).

The Magnuson-Stevens Act requires that each regional fishery management council submit each FMP or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or FMP amendment, immediately publish a notification in the **Federal Register** that the amendment is available for public review and comment. This action constitutes such notice for FMP Amendment 11. NMFS will consider the public comments received during the comment period in determining whether to approve this FMP amendment. To be considered, a comment must be received by close of business on the last day of the comment period (see DATES), regardless of the comment's postmark or transmission date.

Dated: March 1, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–5518 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 45
Tuesday, March 7, 2000

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

Animal and Plant Health Inspection Service

[Docket No. 00–015–1]

Plant-Derived Biologics for Human and Veterinary Applications; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: This is to notify producers and users of human and veterinary vaccines, therapeutics, and diagnostics, as well as other interested persons, that a public meeting will be held to provide a forum for discussion on the regulatory and policy issues related to the manufacture, distribution, and use of biological products derived from plants. The meeting is being organized by the Food and Drug Administration and the Animal and Plant Health Inspection Service and is sponsored by the Institute for International Cooperation in Animal Biologics.

DATES: The meeting will be held on Thursday, April 6, 2000, from 1 p.m. to 5 p.m.

ADDRESSES: The public meeting will be held in the Scheman Building at the Iowa State Center, Ames, IA.

FOR FURTHER INFORMATION CONTACT: For information about the meeting, contact Dr. Bruce Carter, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010; phone (515) 232–5785, fax (515) 232–7120, or e-mail: Bruce.A.Carter@usda.gov.

For registration information, contact Ms. Dawne Buhrow, Institute for International Cooperation in Animal Biologics, 2160 College of Veterinary Medicine, Iowa State University, Ames, IA 50011; phone (515) 294–7632, fax (515) 294–8259, or e-mail: iicab@iastate.edu.

In addition, information regarding the meeting and registration is available on the Internet at http://www.vetmed.iastate.edu/iicab/transpl.htm.

SUPPLEMENTARY INFORMATION: Under its regulations in title 9 of the Code of Federal Regulations (CFR), issued under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) regulates, among other things, the production of veterinary biological products. Although none have been licensed to date, APHIS' Center for Veterinary Biologics anticipates receiving applications for licenses authorizing the production of veterinary biological products derived from plants. In addition, under its regulations in title 7 of the CFR (7 CFR part 340), issued under the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*) and the Plant Quarantine Act (7 U.S.C. 151 *et seq.*), APHIS also regulates, among other things, the field testing of transgenic plants that may be plant pests. Since 1991, APHIS' Plant Protection and Quarantine program has issued 25 permits for the field testing of transgenic plants containing genes whose products are intended for use in the development of human and veterinary biologics. Finally, under its regulations in title 21 of the CFR issued under the Public Health Service Act (42 U.S.C. 300aa *et seq.*), the Food and Drug Administration (FDA) regulates, among other things, the production of biological products intended for use in humans. The FDA's Center for Biologics Evaluation and Research has received applications for plant-derived products intended for use in humans.

In order to provide a forum for the discussion of regulatory and policy issues related to the manufacture, distribution, and use of biological products derived from plants, APHIS and FDA are organizing a public meeting. This public meeting, which is sponsored by the Institute for International Cooperation in Animal Biologics, is scheduled for April 6, 2000, and will provide an opportunity for the exchange of information between APHIS and FDA representatives, producers and users of biological products derived from plants, and other interested persons on issues of common concern. The public meeting will begin at 1 p.m. and is scheduled to end at 5 p.m. Information regarding the meeting and registration instructions may be obtained from the persons listed under **FOR FURTHER INFORMATION CONTACT.**

Persons interested in making an oral presentation at the meeting should submit a brief written statement of the general views they wish to present, the name and address of each person who will participate in the presentation, and an estimate of the approximate length of time needed to make the presentation. This information should be e-mailed by March 20, 2000, to: APHIS__FDA__Plants__oral@iastate.edu. The number of oral presentations and the time allocated for each may be limited, depending upon the number of requests. Oral presentations will be recorded in the proceedings of the meeting. Persons interested in submitting written comments for inclusion in the proceedings may do so by e-mailing them, by March 20, 2000, to: APHIS__FDA__Plants__written@iastate.edu. Written comments and the requested information regarding oral presentations may also be mailed or faxed to Dr. Bruce Carter; his address and fax number are provided under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 1st day of March 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–5429 Filed 3–6–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Rural Business-Cooperative Service (RBS) to request an extension of a currently approved information collection in support of the Cooperative

Development Division (CDD), Cooperative Services Program.

DATES: Comments on this notice must be received on or before May 8, 2000, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: John Wells, Director, CDD, Rural Business-Cooperative Service, USDA, Cooperative Development Division, STOP 3254, 1400 Independence Avenue SW, Washington, DC 20250–3254. Telephone: (202) 720–3350.

SUPPLEMENTARY INFORMATION:

Title: Cooperative Services Questionnaire: Market Potential for New Cooperatives Buyer Survey for New Cooperative Activity.

OMB Number: 0570–0009.

Expiration Date of Approval: May 31, 2000.

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

Abstract: The Rural Business-Cooperative Service (RBS) USDA, conducts feasibility studies to assist in the development of new cooperatives. The Cooperative Development Division specializes in technical assistance to agricultural and rural producer groups interested in organizing a cooperative, and to emerging or developing co-ops, so they can: (a) Use sensible economic judgment, (b) determine co-op feasibility, (c) meet an economic need, (d) successfully operate on sound business principles and, (e) increase member income. In order to carry out the Agency's mission, RBS needs to collect information from the cooperative community.

The authority to carry out RBS mission is defined in the Cooperative Marketing Act of 1926 (44 Stat. 802–1926).

Authority and Duties of Division (7 U.S.C. 453)

(a) The division shall render service to associations of producers of agricultural products, and federations and subsidiaries thereof, engaged in the cooperative marketing of agricultural products, including processing, warehousing, manufacturing, storage, the cooperative purchasing of farm supplies, credit, financing, insurance, and other cooperative activities.

(b) The division is authorized:

(1) To acquire, analyze and disseminate economic, statistical, and historical information regarding the progress, organization, and business methods of cooperative associations in the United States and foreign countries.

(2) To conduct studies of the economic, legal, financial, social, and other phases of cooperation, and publish the results thereof. Such studies shall include the analyses of the organization, operation, financial and merchandising problems of cooperative associations.

(3) To make surveys and analyses if deemed advisable of the accounts and business practices of representative cooperative associations upon their request; to report to the association so surveyed to results thereof, and with the consent of the association so surveyed to publish summaries of the results of such surveys, together with similar facts, for the guidance of cooperative associations and for the purpose of assisting cooperative associations in developing methods of business and market analysis.

(4) To confer and advise with committees or groups of producers, if deemed advisable, that may be desirous of forming a cooperative association and to make an economic survey and analysis of the facts surrounding the production and marketing of the agricultural product or products which the association, if formed, would handle or market.

(5) To acquire from all available sources information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of the agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations, and others.

(6) To promote the knowledge of cooperative principles and practices and to cooperate, in promoting such knowledge, with educational and marketing agencies, cooperative associations, and others.

(7) To make such special studies, in the United States and foreign countries, and to acquire and disseminate such information and findings as may be useful in the development and practice of cooperation.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .5 hours per response.

Respondents: Mainly buyers of agricultural products in domestic market areas proposed cooperatives would be expected to market their member's products.

Estimated number of respondents: 90.

Estimated number of responses per respondent: 1.

Estimated total annual burden on respondents: 45 hours per year.

The Cooperative Development Division specializes in technical assistance to agricultural and rural producer groups interested in organizing a cooperative, and to emerging or developing co-ops, so they can (a) use sensible economic judgment, (b) determine co-op feasibility, (c) meet an economic need, (d) successfully operate on sound business principles and, (e) increase member income.

Copies of this information collection can be obtained from Jean Mosley, Regulations and Paperwork Management Division, at (202) 692–0041.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the 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. Comments may be sent to Jean Mosley, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue SW, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: February 25, 2000.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 00–5426 Filed 3–6–00; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this new information collection for which RUS intends to

request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by May 8, 2000.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 4036 South Building, Washington, DC 20250–1522. Telephone: (202) 720–9550. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies a new information collection that RUS is submitting to OMB for approval.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the 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. Comments may be sent to: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–4120.

Title: Customer Service for Rural Utilities Service Borrowers.

Type of Request: New collection approval.

Abstract: The Rural Utilities Service (RUS) makes mortgage loans and loan guarantees to electric and telecommunications systems to provide and improve electric and telecommunications service in rural areas pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (RE Act). In order to comply with E.O. 12862, ''Setting Customer Service Standards,'' RUS intends to survey its electric and telecommunications borrowers to determine the kind and quality of services customers want and the level of satisfaction with existing services. The Agency will use the information obtained from the survey to improve service where needed.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response. Respondents: Not-for-profit institutions; Business or other for-profit.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 48 hours.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690–1078. FAX: (202) 720–4120.

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

Dated: February 28, 2000.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 00–5427 Filed 3–6–00; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this new information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by May 8, 2000.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 4036 South Building, Washington, DC 20250–1522. Telephone: (202) 720–9550. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies a new information collection that RUS is submitting to OMB for approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the 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. Comments may be sent to: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–4120.

Title: Water and Waste Loans and Grants.

Type of Request: New Information Collection.

Abstract: The Rural Utilities Service is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes to fund water and waste disposal projects serving the most financially needy rural communities through the Water and Waste loan and grant program. Financial assistance should result in reasonable user costs for rural residents, rural businesses, and other rural users. The program is limited to rural areas and small towns with a population of 10,000 or less. The Water and Waste loan and grant program is administered through 7 CFR Part 1780. This program is currently cleared under OMB Control Number 0575–0015 and included with the Rural Housing Service's Community Facilities loan and grant program. At this time, RUS is requesting approval from OMB for a separate collection for its Water and Waste loan and grant program.

Estimate of Burden: Public reporting for this collection of information is estimated to average 2.65 hours per response.

Respondents: Not-for-profit institutions; State, Local, or Tribal Government.

Estimated Number of Respondents: 1,000.

Estimated Number of Responses per Respondent: 51.

Estimated Total Annual Burden on Respondents: 134,240 hours.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690–1078. FAX: (202) 720–4120

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

Dated: February 29, 2000.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 00–5428 Filed 3–6–00; 8:45 am]

BILLING CODE 3410–15–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

Date and Time: March 14, 2000; 9:30 a.m.–4 p.m.

Place: Radio Free Asia (RFA), 2025 M Street, NW, 2nd Fl. Conference Room, Washington, DC.

Closed Meeting: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b(c)(2) and (6)).

Contact Person for More Information: Persons interested in obtaining more information should contact either Brenda Hardnett or John Lindburg at (202) 401–3736.

Dated: March 3, 2000.

John A. Lindburg,

Legal Counsel and Acting Executive Director.

[FR Doc. 00–5607 Filed 3–3–00; 1:32 pm]

BILLING CODE 8230–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oregon Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on March 23, 2000, at the Sweetbrier Inn, Garden Room, 7125 SW Nyberg Road, Tualatin, Oregon 97062. The purpose of the meeting is to develop a plan for constructing a nonthreatening generic complaint process for law enforcement agencies.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 28, 2000.

Carol-Lee Hurley.

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–5423 Filed 3–6–00; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Survey of Income and Program Participation (SIPP) Wave 3 of the 2000 Panel

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 May 8, 2000.

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 Judith H. Eargle, Census Bureau, FOB 3, Room 3379, Washington, DC 20233–0001, (301) 457–3819.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducts the SIPP which is a household-based survey designed as a continuous series of national panels. New panels are introduced every few years with each panel usually having durations of 1 to 4 years. Respondents are interviewed once every four months in monthly rotations. Approximately 11,500 households are in the 2000 panel.

The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single, unified database so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic-policy formulators depend heavily upon the SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since 1983 permitting levels of economic well-being and changes in these levels to be measured over time.

The survey is molded around a central ''core'' of labor force and income questions that will remain fixed throughout the life of a panel. The core is supplemented with questions designed to answer specific needs, such as obtaining information on taxes, the ownership and contributions made to the Individual Retirement Account, Keogh and 401K plans, examining patterns in respondent work schedules, and child care arrangements. These supplemental questions are included

with the core and are referred to as ''topical modules.''

The topical modules for the 2000 Panel Wave 3 collect information about:

- Medical Expenses and Utilization of Health Care
- Work Related Expenses and Child Support Paid
- Assets, Liabilities, and Eligibility

Wave 3 interviews will be conducted from October 2000 through January 2001.

II. Method of Collection

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every few years with each panel having durations of 1 to 4 years. All household members 15 years old or over are interviewed using regular proxy-respondent rules. During the 2000 panel, respondents are interviewed at least three times (3 waves) at 4-month intervals making the SIPP a longitudinal survey. Sample people (all household members present at the time of the first interview) who move within the country and reasonably close to a SIPP primary sampling unit will be followed and interviewed at their new address. Individuals 15 years old or over who enter the household after Wave 1 will be interviewed; however, if these individuals move, they are not followed unless they happen to move along with a Wave 1 sample individual.

III. Data

OMB Number: 0607–0865.

Form Number: SIPP/CAPI Automated Instrument.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 24,150.

Estimated Time Per Response: 30 minutes per person.

Estimated Total Annual Burden Hours: 37,658.

Estimated Total Annual Cost: The only cost to respondents is their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, 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 or included in the request for the Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Dated: March 1, 2000.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–5452 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–817]

Electroluminescent Flat Panel Displays and Display Glass Therefor From Japan; Final Results of Antidumping Duty Sunset Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty sunset review.

SUMMARY: On August 2, 1999, the Department of Commerce (''the Department'') published the notice of initiation of sunset review of the antidumping duty order on electroluminescent (''EL'') high information content flat panel displays (''FPD'') and display glass therefor from Japan. The merchandise covered by this order is EL FPDs. On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party, and inadequate response (in this case no response) from respondent interested parties, we determined to conduct an expedited sunset review. Based on our analysis of the comments received, we find that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''). The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''), and 19 CFR Part 351 (1999) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (*Sunset Policy Bulletin*).

Background

On August 2, 1999, the Department published the notice of initiation of sunset review of the antidumping duty order on EL FPDs (64 FR 41915). We invited parties to comment. On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party, and inadequate response (in this case no response) from respondent interested parties, we determined to conduct an expedited sunset review. The Department has conducted this sunset review in accordance with sections 751 and 752 of the Act.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.,* an order in effect on January 1, 1995). This review covers a transition order within the meaning of section 751(c)(6)(C)(ii) of the Act. Therefore, on December 3, 1999, the Department determined that the sunset review of the antidumping duty order on EL FPDs from Japan is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than February 28, 2000, in accordance with section 751(c)(5)(B) of the Act.[1]

Scope of Review

The merchandise covered by this order is EL FPDs. EL FPDs are large area, matrix addressed displays, no greater than four inches in depth, with a pixel count of 120,000 or greater, whether complete or incomplete, assembled or unassembled. EL FPDs

[1] *Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 67847 (December 3, 1999).

incorporate a matrix of electrodes that, when activated, apply an electrical current to a solid compound of electroluminescent material (*e.g.,* zinc sulfide) causing it to emit light. Included are monochromatic, limited color, and full color displays used to display text, graphics, and video. EL FPD glass, whether or not integrated with additional components, exclusively dedicated to and designed for use in EL FPDs, is defined as processed glass substrates that incorporate patterned row, column, or both types of electrodes, and also typically incorporate a material that reacts to a change in voltage (*e.g.,* phosphor) and contact pads for interconnecting drive electronics. All types of FPDs described above are currently classifiable under subheadings 8543, 8803, 9013, 9014, 9017.90.00, 9018, 9022, 9026, 9027, 9030, 9031, 8471.92.30, 8471.92.40, 8473.10.00, 8473.21.00, 8473.30.40, 8442,40.00, 8466, 8517.90.00, 8528.10.80, 8529.90.00, 8531.20.00, 8531.90.00, and 8541 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Since the issuance of the order on EL FPDs from Japan, the Department clarified that certain that certain EL FPDs used in Graphic Control Panels models GP–410 and GP–430 are within the scope of the order (*see Notice of Scope Rulings,* 59 FR 8910 (February 24, 1994)).

Although domestic interested parties suggested that other scope rulings on FPDs, particularly those involving Sharp, may be related to this order, our review of those scope rulings reveal they were not.

Analysis of Comments Received

All issues raised in the substantive response by parties to this sunset review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated February 28, 2000 which is hereby adopted and incorporated by reference into this notice. The issues discussed in the attached Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B–099.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import__admin/records/frn/, under the heading ''Japan''. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/exporter	Margin (percent)
Sharp Corporation	7.02
All Others	7.02

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: February 28, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–5508 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–047]

Elemental Sulphur From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of elemental sulphur from Canada.

SUMMARY: On September 7, 1999, the Department of Commerce (''the Department'') published the preliminary results and partial rescission of its administrative review of the antidumping duty order on elemental sulphur from Canada (64 FR 48587). This review covers Husky Oil, Ltd. (''Husky''), a manufacturer and exporter, and Petrosul International, Ltd. (''Petrosul''), a reseller, of the subject merchandise to the United States. The period of review is December 1, 1997, through November 30, 1998.

Based on our analysis of the comments received, we have modified our determination for the final results with respect to Petrosul. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0182 or (202) 482–3818, 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 Rounds Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (1998).

Background

On September 7, 1999, the Department published in the **Federal Register** (64 FR 48587) the preliminary results and partial rescission of its administrative review of the antidumping duty order on elemental sulphur from Canada (''*Preliminary Results*''). This review covers Husky Oil, Ltd. (''Husky''), a manufacturer and exporter, and Petrosul International, Ltd. (''Petrosul''), a reseller, of the subject merchandise to the United States. The period of review (''POR'') is December 1, 1997, through November 30, 1998. We invited parties to comment on our preliminary results of review.

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit. On December 22, 1999, the Department extended the time limit for the final results in this review to January 21, 2000. *See Elemental Sulphur From Canada: Extension of Time Limit for Final Results of the Antidumping Duty*

Administrative Review, 65 FR 280, (January 4, 2000). Also, on January 21, 2000, the Department extended the time limit for the final results in this review to February 29, 2000. *See Elemental Sulphur From Canada: Extension of Time Limit for Final Results of the Antidumping Duty Administrative Review,* 65 FR 4804, (February 1, 2000).

On January 24, 2000, we issued a supplemental questionnaire to Petrosul for the purpose of gathering additional information regarding the sales for which Petrosul had knowledge that the merchandise was ultimately destined for the United States. On February 4, 2000, we received a letter from Petrosul indicating that it would not respond to this supplemental questionnaire.

We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

The product covered by this review is elemental sulphur from Canada. This merchandise is classifiable under Harmonized Tariff Schedule (''HTS'') subheadings 2503.10.00, 2503.90.00, and 2802.00.00. Although the HTS subheadings are provided for convenience and for U.S. Customs purposes, the written description of the scope of this finding remains dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memorandum'') from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated February 29, 2000, which is hereby adopted and incorporated by reference into this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at www.ita.doc.gov/import—admin/records/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Use of Facts Available

For a discussion of our application of facts available, see the ''Facts Available'' section of the Decision Memorandum, which is on file in the Central Records Unit, room B–099 of the main Department building and available on the Web at www.ita.doc.gov/import—admin/records/frn.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have assigned an adverse facts available margin to Petrosul for its failure to cooperate to the best of its ability based on its decision to not respond to our request for information.

Final Results of Review

We determine that the following percentage margins exist for the period December 1, 1997, through November 30, 1998:

Manufacturer/exporter/reseller	Margin (percent)
Husky Oil, Ltd	40.38
Petrosul International, Ltd	40.38

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.

Cash Deposit

Because the antidumping duty order on elemental sulphur from Canada has been revoked, effective January 1, 2000, no cash deposits are required for entries of elemental sulphur from Canada for entries on or after January 1, 2000. *See Revocation of Antidumping Finding: Elemental Sulphur From Canada,* 64 FR 40553 (July 27, 1999).

Notification of Interested Parties

This notice also serves as a final 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 the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: February 29, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix 1— Issues in Decision Memorandum

Comments and Responses

1. Adverse Facts Available
2. Facts Available Corroboration
3. Facts Available Determination

[FR Doc. 00–5512 Filed 2–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Extruded Rubber Thread From Malaysia; Final Results of Antidumping Duty Sunset Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty sunset review.

SUMMARY: On August 2, 1999, the Department of Commerce published the notice of initiation of sunset review of the antidumping duty order on extruded rubber thread from Malaysia (64 FR 41915). The merchandise covered by this order is extruded rubber thread from Malaysia. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party, and inadequate response (in this case no response) from respondent interested parties, we determined to conduct an expedited sunset review. As a result of this review, we find that revocation of the antidumping duty order would be likely to lead to continuation or

recurrence of dumping at the levels listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''). The Department's procedures for the conduct of sunset reviews set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and 19 CFR Part 351 (1999) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Background

On August 2, 1999, the Department initiated the sunset review of the antidumping duty order on extruded rubber thread from Malaysia (64 FR 41915). We invited parties to comment. On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party, and inadequate response (in this case no response) from respondent interested parties, we determined to conduct an expedited sunset review. The Department has conducted this sunset review in accordance with sections 751 and 752 of the Act.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.,* an order in effect on January 1, 1995). This review concerns a transition order within the meaning of section 751(c)(6)(C)(ii) of the Act. Therefore, on December 3, 1999 the Department determined that the sunset review of the antidumping duty order on extruded rubber thread from Malaysia is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than February 28, 2000, in accordance with section 751(c)(5)(B) of the Act.[1]

Scope of Review

The product covered by this review is extruded rubber thread from Malaysia. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classifiable under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

The antidumping duty order of the subject merchandise remains in effect for all producers and exporters of extruded rubber thread from Malaysia.

Analysis of Comments Received

All issues raised in the case by parties to this sunset review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated February 28, 2000, which is hereby adopted and incorporated by reference into this notice. The issues discussed in the attached Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B–099.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import__admin/records/frn/, under the heading ''Malaysia''. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/exporter	Margin (percent)
Heveafil/Filmax Schn. Bhd	108.62
Rubberflex Sdn. Bhd	20.36
Filati Lastex Elastofibre (Malaysia)	105.78
Rubfil Sdn. Bhd	108.62
All Others	15.16

In addition, in the 1995–1996 administrative review, the Department found that the four companies identified above absorbed duties on the following percentage of their U.S. sales: Heaveafil—100 percent, Rubberflex—57.35 percent, Filati—100 percent, and Rubfil—100 percent.

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(c), 752, and 777(i) of the Act.

Dated: February 28, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–5507 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea, Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) has received information sufficient to warrant initiation of a changed circumstances administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip from Korea (56 FR 25669 (June 5, 1991)). On July 5, 1996, the order was

[1] *See Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 67847 (December 3, 1999).

revoked, in part, with respect to Cheil Synthetics, Inc. (Cheil) based on three consecutive years of no dumping. (See Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part, 61 FR 35177 (July 5, 1996).) On January 26, 1998, the Department determined that Saehan Industries, Inc. (Saehan) was the successor-in-interest to Cheil, and that the Department's partial revocation with respect to Cheil applied to Saehan (63 FR 3703). On January 5, 2000, Toray Saehan Inc. (TSI) requested that the Department determine that TSI is the successor to Saehan, based upon TSI assuming Saehan's PET film business. Based on the information provided in TSI's January 5, 2000, letter and supplemental documentation provided on February 14, 2000, we preliminarily determine that TSI is the successor firm to Saehan. If these preliminary results are confirmed in the final results of review, the Department's application of the July 5, 1996, partial revocation of the order with respect to Saehan, as the successor-in-interest to Cheil, will apply to TSI.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney at (202) 482–4475 or Robert James at (202) 482–0649, AD/CVD Enforcement Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (1999).

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2000, TSI requested that the Department conduct a changed circumstances administrative review pursuant to section 751(b) of the Act to determine whether TSI should properly be considered the successor firm to Saehan and if, as such, the revocation that is applicable to Saehan should apply to TSI. TSI also requested the Department to publish the preliminary results concurrently with this notice of initiation, pursuant to 19 CFR 351.221(c)(3)(ii). In its request, TSI notified the Department that it was established on October 15, 1999, and commenced operations on December 1, 1999. TSI is a joint venture between Saehan and Toray Industries, Inc. of Japan. TSI indicated that the management, production facilities, supplier relationships, and customers base of TSI are virtually identical to those of Saehan, the company which the Department has determined to be the successor to Cheil. On February 4, 2000, the Department requested that TSI provide documentary evidence supporting its successor-in-interest claim. On February 14, 2000, TSI submitted documentary evidence demonstrating that TSI maintained essentially the same management, production facilities, suppliers, and customer relationships as TSI. (See TSI February 14, 2000, Response to the Department's Request for Additional Information.) Citing the Department's determinations in *Industrial Phosphoric Acid from Israel; Preliminary Results of Antidumping Duty Changed Circumstances Review,* 58 FR 59010 (Nov. 5, 1993), *Certain Hot Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom,* 64 FR 53994, 53955 (Oct. 5, 1999) and *Brass Sheet and Strip from Canada,* 57 FR 5128, 5129 (February 12, 1992), TSI claimed that the Department should determine that it is the successor-in-interest to Saehan, and that the revocation applicable to Saehan should apply to TSI. On January 20, 2000, we received a letter from E.I. DuPont de Nemours & Company and Mitsubishi Polyester Films, L.L.C., the petitioners in this case. Petitioners took no position concerning TSI's contention that it is the successor company to Saehan. Petitioners contend, however, that if the Department determines that TSI is the successor to Saehan, it should require TSI to fully comply with the conditions of the partial revocation applicable to Saehan.

Scope of the Review

The merchandise subject to this antidumping duty order are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextrued. The films excluded from this antidumping duty order are metallized films, and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule of the United States subheading 3920.62.00.00. The HTS subheading is provided for convenience and customs purposes. The written description of the scope of this order is dispositive.

This changed circumstances administrative review covers TSI.

Initiation and Preliminary Results of Changed Circmstances Antidumping Duty Administrative Review

In accordance with section 751(b) of the Act, the Department is initiating a changed circumstances administrative review to determine whether TSI is the successor company to Saehan. In making such a determination, the Department examines several factors including, but not limited to, changes in (1) management, (2) production facilities, (3) supplier relationships, and (4) customers base. See e.g., Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, 57 FR 20460 (May 13, 1992). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is similar to that of the predecessor. See e.g., Industrial Phosphoric Acid from Israel, Final Results of Changed Circumstances Review, 59 FR 6944, 6945 (February 14, 1994). Thus, if evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same entity as the former company, the Department will treat the successor company the same as the predecessor for purposes of antidumping liability, *e.g.,* assign the same cash deposit rate, revocation, etc. (*See id.*)

We examined the information provided by TSI in its January 5, and February 14, 2000, letters and have determined that TSI has established a *prima facie* case that it is the successor-in-interest to Saehan, which the Department has determined to be the successor-in-interest to Cheil. A majority of the senior managers involved in the day-to-day production and sales operation of TSI are the same as those that managed Saehan. Therefore, the management and organizational structure of Saehan has remained intact under TSI. In addition, there have been no changes in the production facilities, inputs and

supplier relationships, or customer base. Because we find that TSI has maintained the same management, production facilities, supplier relationships, and customer bases as Saehan, we preliminarily determine that TSI operates as essentially the same business entity as Saehan with respect to the production and sale of the subject merchandise. Based upon the foregoing, we preliminary determine that the July 5, 1996, partial revocation issued with respect to Cheil, and applied to Saehan, Cheil's successor company, applies to TSI as Saehan's successor-in-interest.

Because TSI has presented evidence to establish a *prima facie* case of its successorship status, we find it appropriate to issue the preliminary results in combination with the notice of initiation in accordance with 19 CFR 351.221(c)(3)(ii). We agree with petitioners that TSI must fully comply with the terms of the revocation applicable to Saehan; therefore, we have requested and received written confirmation from TSI that it will adhere to the terms of the revocation applicable to Cheil, and applied to Saehan, Cheil's successor-in-interest. (See TSI February 14, 2000, Response to the Department's Request for Additional Information, at Appendix F).

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 5 days after the deadline for case briefs. The Department will publish the final results of this changed circumstances review, which will include the results of its analysis to issues raised in any such written comments, no later than four months following the date of publication of this notice. This initiation of review and notice are in accordance with section 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and 19 CFR 351.216.

Dated: March 1, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–5515 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Continuation of Antidumping Duty Order: Polyethylene Terephthalate (PET) Film From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Continuation of Antidumping Duty Order: Polyethylene Terephthalate (PET) Film from Korea.

SUMMARY: On February 4, 2000, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty order on polyethylene terephthalate (''PET'') film from Korea is likely to lead to continuation or recurrence of dumping (65 FR 5592). On February 24, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on PET film from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 9298). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of the antidumping duty order on PET film from Korea.

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1999, the Department initiated, and the Commission instituted, a sunset review (64 FR 35588 and 64 FR 35685, respectively) of the antidumping duty order on PET film from Korea, pursuant to section 751(c) of the Act. As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the order to be revoked (*see Final Results of Expedited Sunset Review: Polyethylene Terephthalate Film From Korea*, February 4, 2000 (65 FR 5592).

On February 24, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on PET film from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Polyethylene Terephthalate (PET) Film from Korea*, 65 FR 9298 (February 24, 2000) and USITC Pub. 3278, Investigation No. 731–TA–459 (Review) (February 2000)).

Scope

The merchandise covered by this antidumping duty order includes all gauges of raw pre-treated, or primed polythylene terephthalate film, sheet, and strip, whether extruded or co-extruded. The films excluded from this antidumping duty order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 3920.62.00.00. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on PET film from Korea. The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than February 2005.

Dated: March 1, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–5510 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–804]

Antidumping Duty Administrative Review of Sparklers From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Paige Rivas or Nithya Nagarajan, Group II, Office IV, AD/CVD Enforcement, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–0651, or (202) 482–5253, respectively.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On July 29, 1999, the Department published a notice of initiation of administrative review of the antidumping duty order on Sparklers from the People's Republic of China, covering the period June 1, 1998, through May 31, 1999 (64 FR 41075). The preliminary results are currently due no later than February 29, 2000.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the preliminary results until no later than March 31, 2000. *See* Decision Memorandum from Thomas Futtner to Holly A. Kuga, dated February 29, 2000, which is on file in the Central Records Unit, Room B–099 of the main Commerce building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: February 29, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 00–5513 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–805; A–428–807; A–570–805]

Continuation of Antidumping Duty Orders: Sulfur Chemicals (Sodium Thiosulfate) From the United Kingdom, Germany, and the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Continuation of Antidumping Duty Orders: Sodium Thiosulfate from the United Kingdom, Germany, and the People's Republic of China.

SUMMARY: On December 30, 1999, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty orders on sodium thiosulfate from the United Kingdom, Germany, and the People's Republic of China (''PRC'') is likely to lead to continuation or recurrence of dumping (64 FR 73515, December 30, 1999). On February 24, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders on sodium thiosulfate from the United Kingdom, Germany, and the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 9298, February 24, 2000). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of the antidumping duty orders on sodium thiosulfate from the United Kingdom, Germany, and the PRC.

EFFECTIVE DATE: March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–1930 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION

Background

On July 1, 1999, the Department initiated, and the Commission instituted, sunset reviews (64 FR 35588 and 64 FR 35687, respectively) of the antidumping duty orders on sodium thiosulfate from the United Kingdom, Germany, and the PRC, pursuant to section 751(c) of the Act. As a result of its reviews, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the orders to be revoked (*see Final Results of Expedited Sunset Reviews: Sulfur Chemicals (Sodium Thiosulfate) from the United Kingdom, Germany, and the People's Republic of China*, 64 FR 73515 (December 30, 1999)).

On February 24, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on sodium thiosulfate from the United Kingdom, Germany, and the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Sodium Thiosulfate from the United Kingdom, Germany, and the People's Republic of China*, 65 FR 9298 (February 24, 2000) and USITC Publication 3279 (February 2000), Investigation Nos. 731–TA–465, 466, 468 (Review).

Scope

The merchandise covered by the antidumping duty orders includes all grades of sodium thiosulfate, in dry or liquid form, used primarily to dechlorinate industrial waste water, from the United Kingdom, Germany, and the PRC. The chemical composition of sodium thiosulfate is Na2S203. Currently, subject merchandise is

classifiable under item number 2832.30.1000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The above HTSUS subheading is provided for convenience and customs purposes. The written description remains dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on sodium thiosulfate from the United Kingdom, Germany, and the PRC. The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751 (c)(6) of the Act, the Department intends to initiate the next five-year review of these orders not later than February 2005.

Dated: March 1, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–5509 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 00–002. Applicant: The Regents of the University of Michigan, 417 Space Research, Ann Arbor, MI 48109–2143. Instrument: Analytical Electron Microscope, Model JEM–2010F. Manufacturer: JEOL Ltd., Japan. Intended Use: The instrument is intended to be used for investigations of microstructure and microchemistry of metals, ceramics, semi-conductors, polymers and biomaterials to relate the micro-and chemical properties of materials and compare with macroscopic properties. In addition, the instrument will be used for educational purposes in the courses MSE 562 Electron Microscopy I, MSE 220 Introduction to Materials and Manufacturing, and MSE 250 Principles of Engineering Materials. Application accepted by Commissioner of Customs: January 31, 2000.

Docket Number: 00–003. Applicant: University of North Dakota, Physics Department, Cornell Street, Witmer Hall, Room 213, Grand Forks, ND 58202–7129. Instrument: Scanning Tunneling Microscope, Model STM 25. Manufacturer: Omicron Associates, Germany. Intended Use: The instrument is intended to be used for investigating the structural, electronic and superconducting properties of advanced materials of technological interest (both conducting and insulating materials). During these studies the instrument will be used to image individual atoms on the surface of materials and characterize important structural features. In addition, the instrument will be used for educational purposes in the courses: PHYS428: Modern Physics Laboratory, PHYS437: Introductory Solid State, PHYS499: Senior Honors, PHYS536: Solid State Physics II and PHYS590: Research. In these courses students will have the opportunity to do state-of-the-art experiments in a wide range of research fields. Application accepted by Commissioner of Customs: February 10, 2000.

Docket Number: 00–004. Applicant: Michigan Technological University, Department of Civil and Environmental Engineering, 1400 Townsend Drive, Houghton, MI 49931. Instrument: Automatic Thin Section Machine. Manufacturer: Dansk Beton Teknik A/S, Denmark. Intended Use: The instrument is intended to be used to prepare thin sections of portland cement concrete and clinker, asphalt concrete, aggregate or other materials by precisely grinding the material to a desired thickness with little to no damage. The prepared specimens are then examined in an optical petrographic microscope and/or scanning electron microscope. The analysis of thin sections allows for the optical properties of the material to be assessed thus determining the crystallography and mineralogy. The objectives of these investigations will primarily focus on the evaluation of these civil engineering materials for the purpose of characterization, identifying deterioration mechanisms and improving performance. Application accepted by Commissioner of Customs: February 18, 2000.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 00–5514 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.022800E]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of committee meeting.

SUMMARY: The North Pacific Fishery Management Council's (NPFMC) Halibut Charter Individual Fishing Quota (IFQ) Committee will meet in Anchorage, AK.

DATES: The meeting will be held on March 22–23, 2000.

ADDRESSES: The meeting will be held at the Clarion Suites, 325 W. 8th Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Jane DiCosimo, NPFMC, 907–271–2809.

SUPPLEMENTARY INFORMATION: The meeting will begin at 1:00 p.m. on Wednesday, March 22, and continue through Thursday, March 23. This will be the first meeting of the newly-appointed committee. The committee's charge is to begin development of preliminary elements and options for a potential IFQ program for Alaskan halibut charter fisheries. The committee will report its progress to the NPFMC in April.

Although non-emergency issues not contained in this agenda may come before this committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject

of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice 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 committee's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: February 29, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–5519 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 00302058–0058–01]

Notice of Conference on State Sovereign Immunity and Intellectual Property Rights

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of meeting.

SUMMARY: The U.S. Patent and Trademark Office (USPTO) is announcing that it will hold a one-day conference on issues related to recent Supreme Court decisions concerning the sovereign immunity of States and Federal intellectual property rights. The conference will bring together a number of constitutional law and intellectual property scholars as well as individuals who can offer the perspective of state governments on these issues.

DATES: The conference will be held on Friday, March 31, 2000, beginning at 9:30 a.m. Requests to participate in the conference must be made no later than March 27, 2000. Written comments may be submitted by no later than April 14, 2000.

ADDRESSES: The conference will be held at the Department of Commerce, Fourteenth Street and Constitution Avenue, N.W., Washington, DC 20230. Conference attendees should enter the Commerce Department Building at its main entrance on 14th Street. Directions to the conference location within the building will be available in the main lobby off 14th Street.

Requests to attend in the conference should be made to Justin Hughes by electronic mail to *justin.hughes@uspto.gov,* by facsimile transmission marked to his attention at (703) 305–8885, or by mail marked to his attention and addressed to the Office of Legislative and International Affairs, U.S. Patent and Trademark Office, Box 4, Department of Commerce, Washington, DC 20231. Conference attendees will be accepted as their requests are received. Should space considerations cause a need to limit attendees, requests will be honored on a first-come, first-serve basis according to the time and date of each request.

Arrangements for conference panelists will be made separately from conference attendees. Conference attendees will be provided with audience-style seating to watch and listen to panel discussions. Attendees may be given the opportunity to participate in question and answer periods attendant to certain conference panel sessions and may provide written comments to the address listed above.

FOR FURTHER INFORMATION CONTACT: Justin Hughes, by telephone at (703) 305–9300, by electronic mail to *justin.hughes@uspto.gov,* by facsimile transmission marked to his attention at (703) 305–8885, or by mail marked to his attention and addressed to the Office of Legislative and International Affairs, U.S. Patent and Trademark Office, Box 4, Department of Commerce, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: In 1999, the U.S. Supreme Court issued a series of opinions addressing the right of States to assert sovereign immunity under the Eleventh Amendment of the U.S. Constitution. Two of these cases directly concerned Federal intellectual property statutes. In *Florida Prepaid Postsecondary Education Expense Board* v. *College Savings Bank,* 119 S. Ct. 2199 (1999), a 5–4 majority of the Court held that States could assert Eleventh Amendment sovereign immunity to shield themselves from suits under the Patent Act. In *Florida Prepaid,* a private bank alleged that a Florida state agency was infringing the bank's patent on a savings method tailored for college tuition expenses. The state agency claimed sovereign immunity from suit under the Eleventh Amendment. While recognizing that Congress has the power to abrogate Eleventh Amendment sovereign immunity under section 5 of the Fourteenth Amendment, the Court reasoned that Congress' passage of the Patent and Plant Variety Protection Remedy Clarification Act in 1992 did not validly abrogate state sovereign immunity because Congress had failed to tailor its legislative abrogation of Eleventh Amendment immunity to remedy or prevent the conduct at issue.

In a companion case, *College Savings Bank* v. *Florida Prepaid Postsecondary Education Expense Board,* 119 S. Ct. 2219 (1999), the Court considered whether states can be sued under § 43(a) of the Lanham Act (15 U.S.C. 1125(a)) where the Trademark Remedy Clarification Act (TRCA) had (1) Amended § 43(a) by defining ''any person'' to include state and state instrumentalities, and (2) Expressly abrogated state sovereign immunity for § 43(a) suits. In *College Savings,* a Florida state agency had raised an Eleventh Amendment sovereign immunity defense against a § 43(a) claim that the state agency had made misstatements about its tuition savings plan in brochures and annual reports. Applying an analysis similar to *Florida Prepaid,* the same 5–4 majority of the Court held that TRCA had not validly abrogated the state sovereign immunity under the Eleventh Amendment. The Court also concluded that Florida had not voluntarily waived its sovereign immunity through its activities in interstate commerce which gave rise to the lawsuit. Although the *College Savings* case did not directly address infringement of a federally registered trademark, the holding of the case is widely viewed as ensuring that states may properly raise Eleventh Amendment sovereign immunity in trademark infringement actions brought against them under the Lanham Act.

The *Florida Prepaid* and *College Savings* cases (the *Florida Prepaid* decisions) followed the Supreme Court's ruling in *Seminole Tribe* v. *Florida,* 517 U.S. 44 (1996), which established that Congress may authorize suits against states in Federal court only pursuant to its authority under section 5 of the Fourteenth Amendment and not pursuant to any Article I power. The *Florida Prepaid* decisions are viewed as further clarifying and restricting the conditions under which states can be made amenable to suit in Federal court, i.e., either through their own waiver of sovereign immunity or through Congressional abrogation of that immunity.

One lower court of appeals has concluded that the *Florida Prepaid* analysis applies equally to copyright suits. In *Chavez* v. *Arte Publico Press,* a copyright owner sued the University of Houston Press for copyright and trademark violations. After a Fifth Circuit panel initially concluded that the University of Houston had impliedly waived its sovereign immunity, *Chavez*

v. *Arte Publico Press,* 59 F.3d 539, 548 (5th Cir. 1995), the University of Houston petitioned for certiorari. The Supreme Court remanded the case for reconsideration in light of its decision in *Seminole Tribe.* See *University of Houston* v. *Chavez,* 517 U.S. 1184 (1996). On remand, the Circuit panel majority concluded that Congress could not condition a state's activities that are regulable by Federal law upon their ''implied consent'' to be sued in Federal court, 157 F.3d 282, 287 (5th Cir. 1998), and that Congress could not use the Fourteenth Amendment to enforce the copyright and trademark laws, 157 F.3d at 287, 290. The *Florida Prepaid* decisions prompted the Circuit to return the case once again to the original panel for further consideration. Last month, that court decided that the University of Houston enjoyed sovereign immunity against suit in Federal court for copyright violations. *Chavez* v. *Arte Publico Press,* No. 93–2881, 2000 U.S. App. LEXIS 2490 (5th Cir. Feb. 18, 2000).

The final disposition of the *Chavez* case was in keeping with another Fifth Circuit panel's earlier conclusion that the State of Texas could raise sovereign immunity against a claim of copyright infringement by an artist who believes his work was infringed by the design of a Texas license plate, *Rodriguez* v. *Texas Commission on the Arts,* 53 U.S.P.Q.2d 1383 (5th Cir. 2000). In *Rodriguez,* the Circuit panel concluded that the rationale of *Florida Prepaid* applied squarely to copyright law and that the Copyright Clarification Act of 1994 (17 U.S.C. § 511) did not validly abrogate Texas' sovereign immunity against suits for copyright infringement. 53 U.S.P.Q.2d at 1384. Together, all of these cases create uncertainty for the uniformity and consistency of the United States intellectual property system and could raise substantial concerns for our international obligations in the field of intellectual property.

To address the issues raised by these cases, the USPTO has asked several Constitutional and intellectual property scholars to serve as panelists for a March 31 conference. The conference will also include state officials. Panelists for the March 31 conference will likely include the following individuals: Preeta Bansal (Solicitor-General of New York), Erwin Chemerinsky (University of Southern California Law School), Dan Farber (University of Minnesota Law School), Jane Ginsburg (Columbia Law School), Marci Hamilton (Cardozo Law School), John Jeffries (University of Virginia Law School), Mark Lemley (Boalt Law School, Berkeley), Daniel Meltzer (Harvard Law School), Daniel Schweitzer (National Association of Attorneys-General), Eugene Volokh (UCLA Law School), and Ernie Young (University of Texas Law School). (Institutions and affiliations are listed for identification purposes only.) Other panelists are also being considered at this time.

The March 31 conference is intended to allow the panelists to engage in a broad discussion of all the issues raised by the *Florida Prepaid* cases. Conference attendees may provide their individual views, observations, proposals, and reports, both during and for a two week period after the conference. All such materials received by PTO will be made available to the public. PTO anticipates integrating the work of individual panelists into a final report from the conference, which will also be made available to the public.

The USPTO anticipates that there will be several morning and afternoon sessions, each devoted to specific issues, including, but not limited to: (1) The *Ex parte Young* doctrine as it applies to intellectual property cases; (2) Possible legislative approaches to abrogate Eleventh Amendment state sovereign immunity in intellectual property cases; (3) Possible systems for state waiver of Eleventh Amendment immunity, including those which couple waiver to participation in the Federal intellectual property system and/or full participation in specified spending programs of the Federal Government; (4) The adequacy of remedies in state courts for private intellectual property owners; and (5) The possible effects of the *Florida Prepaid* decisions on the United States' international obligations in the field of intellectual property. Some of these sessions may provide an opportunity for questions and answers with conference panelists.

Dated: February 24, 2000.

Q. Todd Dickinson,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 00–5511 Filed 3–6–00; 8:45 am]

BILLING CODE 3510–16–U

COMMODITY FUTURES TRADING COMMISSION

Notice of Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 11:30 a.m., Friday, March 10, 2000.

Place: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

Status: Closed.

Matters to be Considered: Rule Enforcement Review.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–5590 Filed 3–3–00; 11:36 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Notice of Meeting

Agency Holding the Meeting: Commodity Futures Trading Commission.

Time and Date: 10 a.m., Wednesday, March 29, 2000.

Place: 1155 21st St., N.W., Washington, D.C., Lobby Level Hearing Room.

Status: Open.

Matters to be Considered: Public Hearing on the Proposed Revision of the Commission's Procedure for the Review of Contract Market Rules.

Contact Person for More Information: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commisson.

[FR Doc. 00–5591 Filed 3–3–00; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995. On February 28, 2000 an emergency notice was published incorrectly. Comments should have been solicited for the information collection, ''Criteria for Distribution of the $134 million FY2000 Appropriation for School Improvement'' instead of the ''Guidance to SEAs on Procedures for Adjusting ED-Determined Title I Allocations to Local Educational Agencies (LEAs).'' In addition, the notice should have stated that a regular collection was being processed as well. Therefore, this notice acts as the regular notice.

DATES: Interested persons are invited to submit comments on or before May 8, 2000.

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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 2, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Criteria for Distribution of the $134 million FY2000 Appropriation for School Improvement.

Frequency: Annually.

Affected Public: State, local or Tribal Government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 1,248.

Abstract: To receive funds provided for school improvement in the FY2000 appropriation, a State must amend its State Title I plan to include (1) criteria showing which of the LEAs will receive funds; (2) criteria for determining how much each LEA will receive; and (3) measures to assure that recipients of funds implement public school choice consistent with the statute.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO__XIMG__XIssues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Written comments or questions regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (202) 708–9346 (fax). 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. 00–5497 Filed 3–6–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans, Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Advisory Commission on Educational Excellence for Hispanic Americans (Commission). Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act in order to notify the public of their opportunity to attend. The public is not receiving a 15 day notice of the meeting because of delays in finalizing meeting logistics.

DATES AND TIMES: Thursday, March 9, from 1–5 pm; Friday, March 10, from 9–4 pm.

ADDRESSES: U.S. Department of Labor, 200 Constitution Ave, NW, Washington, DC.

FOR MORE INFORMATION CONTACT: Richard Toscano, Special Assistant for Interagency Affairs, at 202–401–1411 (telephone), 202–401–8377 (FAX), richard__toscano@ed.gov (e-mail) or mail: U.S. Department of Education, 400 Maryland S.W., room 5E110; Washington, D.C. 20202–3601.

SUMMARY INFORMATION: The Commission was established under Executive Order 12900 (February 22, 1994) to provide the President and the Secretary of Education with advice on (1) the progress of Hispanic Americans toward achievement of the National Goals and other standards of educational accomplishment; (2) the development, monitoring, and education for Hispanic Americans; (3) ways to increase, State, county, private sector and community involvement in improving education; and (4) ways to expand and complement Federal education initiatives.

At the March meeting, the Commission will discuss current and future activities. Specifically, the Commission will focus on ways to institutionalize its work, including ongoing efforts to bring more awareness about federal programs and activities that are assisting Latinos. Individuals who will need accommodations for a disability in order to attend the meeting (*i.e.,* interpreting services, assistive, listening devices, materials in alternative format) should notify Richard Toscano, at (202) 401–2147, by no later than March 7. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

The Commission's Sub-Committee on Higher Education will also hold a press briefing on the issue of Latinos in Higher Education on March 9 from 10:00am–12:00pm at the National Press Club.

Records of all Commission proceedings are available for public inspection at the White House Initiative, U.S. Department of Education, 400 Maryland Ave., S.W., Room 5E110, Washington, D.C. 20202 from 9 a.m. to 5 p.m. (est).

Dated: February 29, 2000.

G. Mario Moreno,

Assistant Secretary, Office of Intergovernmental and Interagency Affairs.

[FR Doc. 00–5437 Filed 3–6–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education (OPE) Agenda Project

AGENCY: Department of Education.

ACTION: Notice of regional meetings and request for written submissions to obtain advice and comments from the public for use in developing a national postsecondary education agenda for the U.S. Department of Education.

SUMMARY: The Assistant Secretary for Postsecondary Education will conduct four regional meetings in Boston, Atlanta, Dallas and San Francisco to solicit advice for use in setting priorities and refining the U.S. Department of Education role in postsecondary education.

FOR FURTHER INFORMATION CONTACT: Terri Douglas, U.S. Department of Education, 1990 K Street, NW, Room 7134, Washington, DC 20006. Telephone: (202) 502–7750. E-mail: OPE__Agenda@ed.gov. Information about the project also is available at the Department of Education Web site at www.ed.gov/OPEAgenda. If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g. Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Education's Office of Postsecondary Education has long served postsecondary students and institutions through a wide range of programs aimed at promoting access to, and quality in, postsecondary education and at strengthening international education. More recently, we have taken on new challenges in promoting distance education, improving teacher education, and further expanding opportunity by better preparing K–12 students for postsecondary education opportunities at an earlier age and by promoting access to graduate education.

Today, America's postsecondary institutions must prepare students for success in a changing world. OPE's mission—''to mobilize national resources to promote opportunity and success for all Americans, in a global environment, through quality postsecondary education''—is even more important in this context. The Assistant Secretary for Postsecondary Education created the Agenda Project to solicit advice from all those who have a stake in postsecondary education. As part of this project, the Assistant Secretary is conducting regional meetings and soliciting written advice from the public. This advice will be used to develop a national postsecondary education agenda—one that will enable our country to meet the needs of students, institutions, the business community and the entire nation in this changing environment.

For more information about the Agenda Project, please visit our Web site at www.ed.gov/OPEAgenda or contact Ms. Terri Douglas at 202–502–7654.

Regional Meetings

Interested parties are invited to attend four regional meetings in order to contribute ideas and advice on OPE's agenda. The regional meetings will begin with a brief description of OPE and the Assistant Secretary's Agenda Project. Participants then will have an opportunity to contribute their ideas and advice, framed around the following three questions:

1. What are the most significant opportunities and challenges facing American postsecondary education in the next five years?

2. What are the appropriate roles for the U.S. Department of Education in postsecondary education?

3. How can the U.S. Department of Education best maintain a continuing dialogue with all those who have a stake in postsecondary education?

The Department of Education has reserved a limited number of hotel rooms at each of the following hotels at a special government per diem room rate. To reserve these rates, be sure to inform the hotel that you are attending the regional meetings with the Department of Education.

Dates, Times and Locations of Regional Meetings

1. *Boston:* April 5, 2000, 10 a.m. to 12 p.m. and 1 p.m. to 3 p.m., The Colonnade Boston, 120 Huntington Avenue, Boston, MA 02116. Call 617–424–7000 or fax 617–424–1717 for hotel reservations. Sleeping room rate: $192 plus taxes. Last day to reserve at the federal rate: March 12

2. *Dallas:* April 26, 2000, 10 a.m. to 12 p.m. and 1 p.m. to 3 p.m, Wyndham Dallas Market Center, 2015 Market Center Blvd., Dallas, TX 75207. Call 214–741–7481 or fax 214–747–6191 for hotel reservations. Sleeping room rate: $89. Last day to reserve at the federal rate: March 27

3. *San Francisco:* May 2, 2000, 10 a.m. to 12 p.m. and 1 p.m. to 3 p.m., Hyatt Fisherman's Wharf, 555 North Point Street, San Francisco, CA 94133. Call 415–563–1234 or fax 415–563–2218 for hotel reservations. Sleeping room rate: $175. Last day to reserve at the federal rate: April 11

4. *Atlanta:* May 10, 2000, 10 a.m. to 12 p.m. and 1 p.m. to 3 p.m., Wyndham Atlanta Hotel, 160 Spring Street, Atlanta, GA 30303. Call 404–688–8600 or fax 404–524–5543 for room reservations. Sleeping room rate: $93. Last day to reserve at the federal rate: April 9

The hearing sites are accessible to individuals with disabilities.

Assistance to Individuals With Disabilities at the Regional Meetings

The Department will provide a sign language interpreter at each of the scheduled hearings. An individual with a disability who will need an auxiliary aid or service other than an interpreter to participate in the meeting (for example, assistive listening device or materials in an alternative format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Invitation To Comment

We invite you to submit written comments and suggestions addressing the questions outlined in the Regional Meetings section. Comments should be addressed to Dr. A. Lee Fritschler, Assistant Secretary for Postsecondary Education, and mailed or e-mailed to the address given in the **FOR FURTHER INFORMATION CONTACT** section.

Comments will be available for public inspection, during and after the comment period, in room 7122, 1990 K Street, NW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal Holidays.

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http://www.access.gpo.gov/nara/index.html.

Dated: March 2, 2000.

A. Lee Fritschler,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 00–5495 Filed 3–6–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–92–000]

CNG Transmission Corporation; Notice of Application

March 1, 2000.

Take notice that on February 22, 2000, CNG Transmission Corporation (CNG), 445 Main Street, Clarksburg, West Virginia 26301, tendered for filing in Docket No. CP00–92–000 an application, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations seeking permission and approval to abandon Well 9081 and associated facilities and to drill up to five new replacement wells (13059, 13060, 13061, 13062, and 13063) all within the Bridgeport Storage Pool located in Harrison and Taylor Counties, West Virginia, all as 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.us/online/rims.htm (call 202–208–2222 for assistance).

CNG states that this authorization is necessitated by the proposed construction of the Bridgeport Bypass Project by the West Virginia Department of Transportation, Division of Highways. CNG also states that it will construct and abandon storage gathering lines pursuant to blanket certificate authority granted in Docket No. CP82–537–000 (21 FERC ¶ 62,172 (1982)).

Any questions regarding the application should be directed to Sean R. Sleigh, Manager, Certificates, CNG Transmission Corporation, 445 West Main Street, Clarksburg, WV 26301 (304) 623–8462 (voice) and (304) 623–8305 (fax).

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 2000, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (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 in any proceeding must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provide for, unless otherwise advised, it will be unnecessary for CNG to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–5440 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–64–001]

CNG Transmission Corporation; Notice of Amendment

March 1, 2000.

Take notice that on February 17, 2000 CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP00–64–001 an amendment to the pending application filed on December 29, 1999, in Docket No. CP00–64–000, pursuant to Sections 7(c) and 7(b) of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate certain pipeline and compression facilities located in Pennsylvania and New York and approval to abandon a segment of a pipeline located in Pennsylvania, 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).

By the pending application in Docket No. CP00–64–000, CNG proposes to construct and operate facilities in order to substitute its own transportation capacity for market area service entitlements that CNG currently holds on Tennessee Gas Pipeline Company pursuant to Contract No. 3919. Specifically, CNG proposes to: (1) Construct 13 miles of 30-inch pipeline, known as TL 474x2, to loop CNG's existing pipeline in Armstrong County, Pennsylvania; (2) install 4,450 horsepower (hp) of additional

compression at Punxsutawney Station in Jefferson County, Pennsylvania; (3) install 2,400 hp of additional compression at Ardell Station in Elk County, Pennsylvania; (4) install 6,400 hp of compression at a new station, Little Greenlick Relay Station, in Potter County, Pennsylvania; (5) install 7,000 hp of compression at a new station site, Brookman Corners Station, in Montgomery County, New York; and (6) construct 800 feet of 30-inch pipeline, known as the Connector Line (TL–510), between TL–474x2 and LN–26 and LN–380 in Armstrong County, Pennsylvania. In addition, CNG proposes to abandon in place 12.9 miles of 12-inch pipeline in Armstrong County, Pennsylvania known as LN–9 and physically remove 700 feet of that line.

In the subject amendment, CNG seeks to modify its original request. CNG states that it now seeks approval to abandon by removal 9,600 feet of LN–9 instead of 700 feet as originally proposed.

Any questions regarding the application should be directed to Sean R. Sleigh, Manager of Certificates at (304) 623–8462, CNG Transmission Corporation, 445 West Main Street, Clarksburg, West Virginia 26301.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 22, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. 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. All persons who have heretofore filed need not file again.

David P. Boergers,

Secretary.

[FR Doc. 00–5441 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–97–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

March 1, 2000.

Take notice that on February 23, 2000, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978–1492, filed in Docket No. CP00–97–000 a request pursuant to Sections 157.205 and 157.16(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.208(b)) for authorization to uprate the Maximum Allowable Operating Pressure (MAOP) of the Ramsey Plant Line (Line 3152),[1] originating in Eddy County, New Mexico, and terminating in Reeves County, Texas, and to thereafter operate Line 3152 at the higher MAOP under the blanket certificate issued in Docket No. CP82–435–000, pursaunt to Section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance.

El Paso states it received a request from Huntington Energy, L.L.C. (Huntington) to deliver gas from high pressure gas sources to El Paso's California Mainline System and that the requested uprate will permit it to receive up to 30 MMcf/d of gas for transportation for Huntington. El Paso states that Line No. 3152 currently has a certificated operating limit of 650 psig, El Paso seeks authorization to uprate the MAOP to 960 psig. El Paso states that estimated cost to uprate Line No. 3152 with the installation of pressure regulators is $88,900, which Huntington will reimburse El Paso for all costs associated with the uprating. El Paso plans an in-service date for the operation of Line No. 3152 at the higher MAOP of 960 psig of no later than May 1, 2000.

El Paso states that Line No. 3152 was originally used to deliver gas from the former Continental Ramsey Oil Plant Receipt Point (Continental) into its 16'' Jal-El Paso ''A'' Line. In 1993, Continental was converted to a delivery point and became the Conoco Ramsey Plant Delivery Point (Concoc) and El Paso reversed the flow of gas in Line No. 3152. In 1997, the Orla Petco Delivery Point (Orla) was installed adjacent to Conoco. According to El Paso, the reversal of the flow on Line No. 3152 will not adversely affect deliveries to Conoco and Orla, since they will be served by natural gas supplies from the Huntington Receipt Point.

Any questions regarding this application should be directed to Robert T. Tomlinson, Director, Tariff and Certificate Department for El Paso, 100 North Stanton, El Paso, Texas 79901 at (915) 496–5959, or Michael D. Moore, Director, Federal Agency Relations for El Paso, 601 13th Street, NW., Suite 850 South, Washington, DC 20005 at (202) 662–4310.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed 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 pursaunt to Section 7 of the Natural Gas Act.

David P. Boegers,

Secretary.

[FR Doc. 00–5442 Filed 3–2–00; 8;45 am]

BILLING CODE 6717–01–M

[1] Line No. 3152 is a 6⅝'' O.D. lateral line approximately 8.7 miles long, which was originally constructed as a gas supply lateral and was designed to operate at an MAOP of 650 psig in order to receive up to approximately 10 MMcf/d of natural gas under budget-type authority in Docket No. G–17256 (21 FPC 474).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–163–002]

Kern River Gas Transmission Company; Notice of Compliance Filing

March 1, 2000.

Take notice that on February 25, 2000, Kern River Gas Transmission Company (Kern River), in compliance with the order issued by the Federal Energy Regulatory Commission (Commission) on February 10, 2000, in Docket Nos. RP00–163–000 and 001, tendered its responses to concerns raised by intervening parties related to its imbalance netting and trading proposal.

Kern River states that it has served a copy of its response upon each person designated on the official service list compiled by the Secretary in this proceeding.

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).

David P. Boergers,

Secretary.

[FR Doc. 00–5445 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–187–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 1, 2000.

Take notice that on February 28, 2000, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Second Revised Sheet No. 407, with a proposed effective date of March 30, 2000.

National Fuel states that the purpose of the instant filing is to revise GT&C Section 17 of its tariff to expressly permit National Fuel and its shippers to vary the payment obligations and crediting mechanisms for capacity release transactions when entering into negotiated rate agreements. National Fuel further states that consistent with the Commission's policy, the proposed provision includes language clarifying that its tariff does not authorize the negotiation of terms and conditions of service.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–5449 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 137–002]

Pacific Gas & Electric Company; Notice of Meeting

March 1, 2000.

Take notice there will be a meeting of the Recreation subgroup of the Mokelumne Relicensing Collaborative on March 7, 2000, from 9 a.m. to 4 p.m. at the PG&E offices, 2740 Gateway Oaks Drive, in Sacramento, California. Expected participants need to give their names to David Moller (PG&E) at (415) 973–4696.

For further information, please contact Diana Shannon at (202) 208–7774.

David P. Boergers.

Secretary.

[FR Doc. 00–5443 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–186–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 1, 2000.

Take notice that on February 25, 2000 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Twenty Fourth Revised Sheet No. 50. The attached tariff sheet is proposed to be effective March 1, 2000.

Transco states that the purpose of the instant filing is to track rate changes attributable to transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. The filing is being made pursuant to tracking provisions under Section 4 of Transco's Rate Schedule FT–NT.

Transco states that copies of the filing are being mailed to its 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, 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).

David P. Boergers,

Secretary.

[FR Doc. 00–5446 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–102–000, et al.]

Panda Perkiomen Power, L.P., et al.; Electric Rate and Corporate Regulation Filings

March 1, 2000.

Take notice that the following filings have been made with the Commission:

1. Panda Perkiomen Power, L.P.

[Docket No. EG00–102–000]

Take notice that on February 25, 2000, Panda Perkiomen Power, L.P. (Panda), with its principal offices at 4100 Spring Valley Road, Suite 1001, Dallas, Texas 75244, tendered for filing 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.

Panda 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 PMJ Interconnection, L.L.C. (PJM) and sell electricity at wholesale.

Comment date: March 22, 2000, 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. Energy Unlimited, Inc.

[Docket No. ER98–1622–007]

Take notice that on February 25, 2000, Energy Unlimited, Inc. filed their quarterly report for information only.

3. Sierra Pacific Power Company

[Docket Nos. ER99–28–003; EL99–38–002; ER99–945–002]

Take notice that on February 25, 2000, Sierra Pacific Power Company filed a Notice of Depositions pursuant to Rules 403 and 404 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure (18 CFR 385.403 and 385.404).

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. NRG Northeast Power Marketing LLC

[Docket No. ER00–1690–000]

Take notice that on February 25, 2000, NRG Northeast Power Marketing LLC (NEPM), a marketer of electric power, has filed a notice of cancellation of its Rate Schedule FERC No. 1, pursuant to section 205 of the Federal Power Act, 16 U.S.C. § 824d (1994), and Section 35.15 of the Commission's regulations, 18 CFR 35.15.

NEPM proposes for its cancellation to be effective on April 25, 2000.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Alliant Energy Corporate Services, Inc.

[Docket No.ER00–1691–000]

Take notice that on February 24, 2000, Alliant Energy Corporate Services, Inc. (Alliant Energy) on behalf of Interstate Power Company (IPC) tendered for filing for a Negotiated Capacity Transaction (Agreement) between IPC and WPL for the period June 1, 2000 through August 31, 2000. The Agreement was negotiated to provide service under the Alliant Energy System Coordination and Operating Agreement among IES Utilities Inc., Interstate Power Company, Wisconsin Power & Light and Alliant Energy.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric and Power Company

[Docket No. ER00–1692–000]

Take notice that on February 25, 2000, Virginia Electric and Power Company (Virginia Power) amended its filing in this proceeding by tendering an executed version of the Service Agreement between Virginia Electric and Power Company and Allegheny Energy Supply Company, LLC. Under the Service Agreement, Virginia Power will provide services to Allegheny Energy Supply Company, LLC under the terms of the Company's Revised Market-Based Rate Tariff designated as FERC Electric Tariff (Second Revised Volume No. 4), which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98–3771–000.

Virginia Power requests an effective date of November 17, 1999, the date service was first provided.

Copies of the filing were served upon Allegheny Energy Supply Company, LLC, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. The Montana Power Company and PP&L Montana, LLC

[Docket No. ER00–1693–000]

Take notice that, on February 25, 2000, The Montana Power Company (Montana Power) and PP&L Montana, LLC (PPLM) (together, the Applicants) jointly tendered for filing: (1) rate schedules and supplements thereto for PPLM and Montana Power; (2) Notices of Cancellation of Montana Power rate schedules; and (3) requests for waivers as set forth in more detail therein, all in connection with the assignment of Montana Power's interest in the 1964 Pacific Northwest Coordination Agreement and the 1997 Pacific Northwest Coordination Agreement (together, the PNCAs) to PPLM. Montana Power and PPLM recently completed the sale of Montana Power's generation assets to PPLM, and the assignment of the PNCAs is an additional aspect of that transaction.

Applicants state that copies of this filing have been served upon all parties to the PNCAs.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Company

[Docket No. ER00–1694–000]

Take notice that on February 25, 2000, Pacific Gas and Electric Company (PG&E) tendered for filing the following changes to the Interconnection Agreement Between Pacific Gas And Electric And The City Of Santa Clara (IA), Initially filed under FERC Docket No. ER84–6–000: (1) revisions to Appendix A; (2) deletion of the Agreement Between City Of Santa Clara, California and Pacific Gas And Electric Company To Implement The Performance-Based Rate Settlement For Diablo Canyon Nuclear Power Plant Approved and Adopted By The Public Utilities Commission Of the State Of California (Implementation Agreement); and (3) a revised Exhibit A–4 to Appendix A to the IA.

PG&E's filing regarding Appendix A to the IA proposes rate changes other than rate increases. PG&E's filing regarding Exhibit A–4 to Appendix A proposes revisions to Exhibit A–4 with respect to Firm Transmission Service between Points of Receipt and Points of Delivery.

Copies of this filing were served upon Santa Clara and the Public Utilities Commission of the State of California.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Union Electric Company, d/b/a AmerenUE

[Docket No. ER00–1695–000]

Take notice that on February 25, 2000, Union Electric Company, d/b/a AmerenUE tendered for filing a proposal for providing a sharing credit to its Wholesale Electric Service customers—the Cities of California, Centralia, Farmington, Fredericktown, Hannibal, Kahoka, Kirkwood, Linneus, Marceline, Owensville, Perry, Rolla, and St. James, Missouri; Citizens Electric Corporation; and City of Jackson, Missouri.

Said credit follows a credit to the Company's Missouri retail customers and is being applied to the Company's wholesale customers following Section 2 of said Wholesale Electric Service Agreements (and Item 3 for the City of Jackson).

Copies of the filing were served upon the public utility's jurisdictional customers and the Missouri Public Service Commission.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. MidAmerican Energy Company

[Docket No. ER00–1696–000]

Take notice that on February 25, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Firm Transmission Service Agreement with Dynegy Power Marketing, Inc. (Dynegy), dated February 2, 2000, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of February 2, 2000, for the Agreement with Dynegy, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Dynegy, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Alliant Energy Corporate Services, Inc.

[Docket No. ER00–1697–000]

Take notice that on February 25, 2000, Alliant Energy Corporate Services, Inc. (Alliant Energy) on behalf of Wisconsin Power & Light (WPL) tendered for filing a Unit Participation Capacity Transaction (Agreement) between WPL and IPC for the period June 1, 2000 through August 31, 2000. The Agreement was negotiated to provide service under the Alliant Energy System Coordination and Operating Agreement among IES Utilities Inc., Interstate Power Company, Wisconsin Power & Light and Alliant Energy.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Company

[Docket No. ER00–1698–000]

Take notice that on February 25, 2000, New England Power Company (NEP) tendered for filing Amendment No. 3 to the Wholesale Sales Agreement (the Agreement) between NEP and USGen New England, Inc. (USGenNE), formerly USGen Acquisition Corporation, for service under NEP's Wholesale Market Tariff, FERC Electric Tariff, Original Volume No. 10 (Tariff No. 10), FERC Rate Schedule No. 489 (redesignated as Service Agreement No. 2 under Tariff No. 10). The proposed Amendment No. 3 provides for the assignment by USGenNE to Constellation Power Source, Inc. (CPS) of USGenNE's rights and obligations under the Agreement to purchase NEP's share of the wholesale nuclear entitlements from its nuclear units.

Copies of the filing were served upon USGenNE, CPS and the Department of Public Utilities of the Commonwealth of Massachusetts.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER00–1699–000]

Take notice that on February 25, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company (doing business and collectively referred to as GPU Energy) submitted for filing amendments to the Wheeling and Supplemental Power Agreement Between Pennsylvania Electric Company and Allegheny Electric Cooperative, Inc. (AEC). The materials in the amendments consist of new Appendix B–4 (which replaces existing Appendix B–3), revised Exhibit A, and revised Exhibit C–1 of the agreement.

Copies of the filing were served upon AEC and regulators in the Commonwealth of Pennsylvania and the State of New Jersey.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Cleco Utility Group Inc.

[Docket No. ER00–1700–000]

Take notice that on February 25, 2000, Cleco Utility Group Inc. (Cleco), tendered for filing proposed changes in its Rate Schedule FERC No. 13, which would amend the existing Electric System Interconnection Agreement with Cajun Electric Power Cooperative, Inc.

The proposed rate changes effects an assignment, and consent to the assignment, of Cajun Electric Power Cooperative's rights, interests, and obligations under the Electric System Interconnection Agreement to Louisiana Generating LLC.

Copies of the filing were served upon the Ralph R. Mabey, as Chapter 11 Trustee for Cajun Electric Power Cooperative, Inc., Louisiana Generating LLC, and the Louisiana Public Service Commission.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Consumers Energy Company

[Docket No. ER00–1701–000]

Take notice that on February 25, 2000 Consumers Energy Company (Consumers) tendered for filing a Facilities Agreement Between Consumers and Alpena Power Generation, LLC, (Facilities Agreement), dated January 20, 2000. Under the Facilities Agreement, Consumers is to construct, operate and maintain various interconnection facilities.

Copies of the filing were served upon Alpena Power Generation and upon the Michigan Public Service Commission.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. PECO Energy Company

[Docket No. ER00–1702–000]

Take notice that on February 25, 2000, PECO Energy Company (PECO) filed under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, an Agreement dated February 22, 2000 with Griffin Energy Marketing, L.L.C. (GEM) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of February 22, 2000, for the Agreement.

PECO states that copies of this filing have been supplied to Griffin Energy Marketing, L.L.C. and to the Pennsylvania Public Utility Commission.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. PPL Energyplus, LLC,

[Docket No. ER00–1703–000]

Take notice that on February 25, 2000, PPL EnergyPlus, LLC filed a Notice of Change in Corporate Name to notify the Federal Energy Regulatory Commission that the corporate name of PP&L EnergyPlus Co., LLC has been changed to PPL EnergyPlus, LLC, effective February 14, 2000.

Comment date: March 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. PPL Montana, LLC

[Docket No. ER00–1704–000]

Take notice that on February 25, 2000, PPL Montana, LLC filed a Notice of Change in Corporate Name to notify the Federal Energy Regulatory Commission that the corporate name of PP&L Montana, LLC has been changed to PPL Montana, LLC, effective February 14, 2000.

Comment date: March 17, 2000, 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. 00–5485 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–58–000, et al.]

The United Illuminating Company, et al.; Electric Rate and Corporate Regulation Filings

February 29, 2000.

Take notice that the following filings have been made with the Commission:

1. The United Illuminating Company

[Docket No. EC00–58–000]

Take notice that on February 24, 2000, The United Illuminating Company (UI) tendered for filing an application pursuant to Section 203 of the Federal Power Act for authorization to implement a corporate reorganization involving the creation of a new holding company, to be known as UIL Holdings Corporation, that will hold the common stock of UI.

Comment date: March 27, 2000, in accordance with Standard paragraph E at the end of this notice.

2. Southwestern Electric Power Company

[Docket No. EC00–1685–000]

Take notice that on February 24, 2000, Southwestern Electric Power Company (SWEPCO) submitted for filing Amendment No. 1 and First Revised Exhibit A to the ERCOT Power Supply Agreement between SWEPCO and Tex-La Electric Cooperative of Texas, Inc. (Tex-La). Amendment No. 1 modifies Tex-La's minimum purchase obligations under the ERCOT PSA.

SWEPCO seeks an effective date of January 1, 2000 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on Tex-La and on the Public Utility Commission of Texas.

Comment date: March 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. EC00–1686–000]

Take notice that on February 24, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and Reliant Energy Services, Inc. (RELIANT), dated August 10, 1999. This Service Agreement specifies that RELIANT has agreed to the rates, terms and conditions of GPU Energy's Market-based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and RELIANT to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of August 10, 1999 for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: March 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Minnesota Power, Inc.

[Docket No. EC00–1687–000]

Take notice that on February 24, 2000, Minnesota Power, Inc. tendered for filing signed Non-Firm and Short-term Firm Point-to-Point Transmission Service Agreements with CMMPA/UP under its Short-Term Firm and Non-Firm Point-to-Point Transmission Service to satisfy its filing requirements under this tariff.

Comment date: March 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Geysers Power Company, LLC

[Docket No. EC00–1689–000]

Take notice that on February 24, 2000, Geysers Power Company, LLC (Geysers Power) filed its revised rate sheet amending the terms of the Reliability Must-Run (RMR) Agreements with the California Independent System Operator Corporation (ISO) applicable to the Geysers Main Units. The revised rate sheet is submitted in compliance with the letter order dated February 9, 2000, requiring Geyser Power to file rate schedules to delete MNDC revision values, Geysers Power Company, LLC, 90 FERC ¶ 61,113 (2000).

Comment date: March 16, 2000, 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, NE, Washington, DC 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. 00–5439 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2320–016, New York]

Orion Power New York; Notice of Availability of Environmental Assessment

March 1, 2000.

An environmental assessment (EA) is available for public review. The EA analyzes the environmental effects of proposed changes to the project boundary for the Middle Raquette River project located in the Town of Colton in St. Lawrence County, New York. The proposed boundary changes would result in the removal of about 24 acres of land from two areas of the project's Higley Development.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Based on the environmental analyses presented in the EA, the Commission's staff finds that the proposed project boundary changes would not constitute a major federal action significantly affecting the quality of the human environment.

The EA has been attached to and made a part of an Order Amending License, issued March 1, 2000, for the Middle Raquette River project (FERC No. 2320–016). The EA is available for inspection and reproduction at the Commission's Public Reference Room located at 888 First Street, NE, Room 2A, Washington, DC 20426. Copies of the EA also may be obtained by calling (202) 208–1371, or by email at *Public.ReferenceRoom@ferc.fed.us.* The EA also may be viewed on the Commission's web site at *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–5448 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

March 1, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 184–065.

c. *Date filed:* February 22, 2000.

d. *Applicant:* El Dorado Irrigation District.

e. *Name of Project:* El Dorado Project.

f. *Location:* Located on the South Fork of the American River and its tributaries in the counties of El Dorado, Alpine, and Amador, California, partially within the boundaries of the Eldorado National Forest. The project also diverts about 1,900 acre-feet of water from lower Echo Lake in the upper Truckee River Basin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* William T. Hetland, General Manager, El Dorado Irrigation District, 2890 Mosquito Road, Placerville, California 95667. Telephone (530) 622–4513.

i. *Commission Contact:* Any questions on this notice should be addressed to Nan Allen, e-mail address nan.allen@ferc.fed.us, or telephone 202–219–2938.

j. *Deadline for filing additional study requests:* April 24, 2000.

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 (Project No. 184–065) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The project consists of the following existing facilities: (1) A 113-foot-long, 20-foot-high rubble and masonry main dam with a crest elevation of 8,210 feet mean sea level (msl) and 11 auxiliary dams, impounding Lake Aloha, a 5,179 acre-foot reservoir; (2) a 320-foot-long, 14-foot-high roller-compacted concrete dam with a crest elevation of 7,413 feet msl, impounding lower Echo Lake, a 1,900 acre-foot reservoir; (3) a 6,125-foot-long conduit from lower Echo Lake to the South Fork of the American River; (4) a 1,200-foot-long, 84.5-feet-high gunite-core earthfill main dam with a crest elevation of 7,959.5 feet msl and one auxilliary dam, impounding Caples Lake, a 22,490 acre-foot reservoir; (5) a 280-foot-long, 30-foot-high rock and earthfill dam with a crest elevation of 7,261 feet msl, impounding Silver Lake, a 13,280 acre-foot reservoir; (6) a 271-foot-long, 20-foot-high rickfill timber crib diversion dam with a crest elevation of 3,910.5 feet msl, impounding 200 acre-feet of the South Fork of the American River; (7) a 22.3-mile-long conveyance from the diversion dam to the forebay; (8) a 70-foot-long, 9.5-foot-high concrete diversion dam with a crest elevation of 4,007 feet msl on Alder Creek; (9) six small creeks that divert into the conveyance—Mill Creek, Bull Creek, Carpenter Creek, Ogilby Creek, Esmeralda Creek and an unnamed creek; (10) a 836-foot-long, 91-foot-high earthfill foregay dam with a crest elevation of 3,804 feet msl, impounding a 356-acre-foot reservoir; (11) a 2.8-mile combination pipeline and penstock conveyance, with surge tank, from the forebay to the powerhouse; (12) a 110-foot-long by 40-foot-wide steel frame powerhouse with reinforced concrete walls and an installed capacity of 21,000 kilowatts, producing about 106 gigawatthours annually when operational; and (13) other appurtenances. No transmission lines are included with the project. The project is not currently operational.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for

inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

David P. Boergers,

Secretary.

[FR Doc. 00–5444 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2077–016]

USGen New England Inc.; Notice Modifying a Restricted Service List for Comments on a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

March 1, 2000.

On July 14, 1998, the Federal Energy Regulatory Commission (Commission) issued a notice for the Fifteen Mile Falls Project (FERC No. 2077–016) proposing to establish a restricted service list for the purpose of developing and executing a Programmatic Agreement for managing properties included in or eligible for inclusion in the National Register of Historic Places. The Fifteen Mile Falls Project is located on the Connecticut River, in Grafton County, New Hampshire, and Caledonia County, Vermont. USGen New England, Inc. is the licensee.

Rule 2010 of the Commission's Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The following two additions are made to the restricted service list notice issued on July 14, 1998, for Project No. 2077–016:

Nat Tripp, Connecticut River Joint Commissions, P.O. Box 1182, Charlestown, NH 03603

Brian Fitzgerald, VT DEC, Water Quality Division, 103 South Main Street, Building 10 North, Waterbury, VT 05671–0408

David P. Boergers,

Secretary.

[FR Doc. 00–5447 Filed 3–6–00; 8:45 am]

BILLING CODE 6717–01–M

[1] 18 CFR 385.2010

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100155; FRL–6493–1]

American Management Systems and Technology Group; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to American Management Systems and Technology Group in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). American Management Systems and Technology Group has been awarded multiple contracts to perform work for OPP, and access to this information will enable American Management Systems and Technology Group to fulfill the obligations of the contract.

DATES: American Management Systems and Technology Group will be given access to this information on or before March 13, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. Contractor Requirements

Under Contract No. GS–35F–4979H, the contractor will perform the following: American Management Systems and Technology Group will be working on the OPPTS server located in OPP to install and support a financial management system, the Integrated Resource Management System (IRMS). Because it may be necessary for American Management Systems and Technology Group to access data on the OPP server for testing and data management purposes, it is possible that American Management Systems and Technology Group could be exposed to sensitive FIFRA CBI information housed on the same server.

This contract involves no subcontractors.

OPP has determined that the contract described in this document involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with American Management Systems and Technology Group, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In

addition, American Management Systems and Technology Group is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to American Management Systems and Technology Group until the requirements in this document have been fully satisfied. Records of information provided to American Management Systems and Technology Group will be maintained by EPA Project Officers for these contracts. All information supplied to American Management Systems and Technology Group by EPA for use in connection with these contracts will be returned to EPA when American Management Systems and Technology Group has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: February 22, 2000.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 00–5504 Filed 3–6–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6546–1]

Final NPDES Permits for Log Transfer Facilities Operating in Alaska Prior to October 22, 1985 and Possessing a Section 404 Permit but Not a Section 402 Permit (AK–G70–0000) and All Other Log Transfer Facilities Operating in Alaska (AK–G70–1000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final NPDES General Permits.

SUMMARY: The Director of the Office of Water, EPA Region 10, is publishing notice of the availability of two National Pollutant Discharge Elimination System (NPDES) general permits (numbers AK–G70–0000 and AK–G70–1000) for coverage of log transfer facilities (LTFs) operating in Alaska, pursuant to the provisions of the Clean Water Act, 33 U.S.C. 1251 *et seq*. General permit AK–G70–0000 (''pre-1985 permit'') includes section 402 modifications to section 404 permits issued to LTFs prior to October 22, 1985, in accordance with section 407 of the Water Quality Act of 1987 (Public Law 100–4). All other LTFs can apply to be authorized to discharge under general permit number AK–G70–1000 (''post-1985 permit'').

Because general permit AK–G70–0000 contains modifications of the existing permits originally issued under section 404 of the Clean Water Act for LTFs operating prior to October 22, 1985, the permit conditions apply to discharges of bark and wood debris upon the effective date of the permit. Although notification is required from these facilities written confirmation is not required from EPA for automatic coverage. General permit AK–G70–1000 authorizes discharges from LTFs not possessing pre-1985, section 404 permits to marine waters of Alaska (extending from the Alexander Archipelago west through central Gulf of Alaska and Prince William Sound to Kodiak Island). These facilities are authorized to discharge under the permit after a Notice Of Intent application for coverage is sent to EPA and the Alaska Department of Environmental Conservation (ADEC) and/or a notification of permit coverage is received from the EPA. The EPA also has the option to automatically cover these facilities, under general permit AK–G70–1000, without receiving the notice of intent application.

Except for those LTFs operating in areas excluded from general permit coverage under the post-1985 permit, the general permits authorize the discharge of bark and wood debris, under specified terms of the general permits, into both near-shore and offshore marine waters in Alaska. The incidental discharge of petroleum products and sediment are also addressed in the general permits. The LTFs authorized by the general permits are required to develop and implement pollution prevention plans and to restrict their discharges to inside the perimeter of the project area (the zone of dilution). The permits also contain annual underwater bark monitoring for those facilities where bark accumulation is likely to occur. If the bark monitoring shows that one acre of continuous coverage and a thickness of 10 cm at any point is exceeded, additional practices must be implemented to minimize additional bark accumulation. The conditions of the general permits are largely based on the Alaska Timber Task Force Guidelines.

EFFECTIVE DATE: The general NPDES permits shall become effective on March 21, 2000. The post-1985 general permit and the authorization to discharge shall expire at midnight on March 21, 2005.

FOR FURTHER INFORMATION CONTACT: The complete administrative record for the general NPDES permit is available for public review by contacting EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 553–0523 or (206) 553–1643, or via EMAIL to the following address: washington.audrey@epa.gov. For those with impaired hearing or speech, please contact EPA's telecommunication device for the deaf (TDD) at 206/553–1698. Copies of the general NPDES permits, supporting fact sheet for the draft general NPDES permit, response to public comments, and today's publication are available from the EPA Alaska Operations Office at 222 West 7th Avenue, #19, Anchorage, Alaska 99513–7588, 907/271–6561 or the Alaska Department of Environmental Conservation at 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801. These documents can also be found by visiting the Region 10 web site at www.epa.gov/r10earth/water/htm.

SUPPLEMENTARY INFORMATION:

Public Comment

Pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1342, EPA proposed and solicited comments on the draft general permit in the **Federal Register** at 61 FR 5111–5112 (September 30, 1996), Anchorage Daily News, Ketchikan Daily News, The Seward Phoenix Log, The Valdez Vanguard, and The Cordova Times. The public comment period was extended by 21 days, notice of which was published in the **Federal Register** at 61 FR 57425 (November 6, 1996) and the Valdez Vanguard, Daily Sitka Sentinel, The Cordova Times, and The Seward Phoenix Log on November 7, 1996. Additionally, copies of the draft permit were sent to all known log transfer facilities operating under a section 404 permit issued prior to October 22, 1985. EPA also convened a two-day meeting with all commenters on March 11 and 12, 1997, in order to clarify comments received and allow commenters to hear each other's concerns.

Changes have been made from the draft permit to the final permits in response to comments received from facility representatives, tribal representatives, concerned citizens, environmental groups, the U.S. Forest Service, U.S. Fish and Wildlife Service, and the State of Alaska. All comments, along with EPA's responses, are summarized in the Response to Comments documents, which may be obtained at the above addresses, or viewed on the Region 10 web site listed above. The changes address the zone of deposit, the bark accumulation threshold for requiring additional

Pollution Prevention practices, methodology for bark monitoring surveys, the areas excluded from permit coverage, and administrative corrections. In response to comments, the section 402 modifications to section 404 permits issued prior to October 22, 1985 are being issued in a separate general permit (AK–G70–0000).

Legal Requirements

Coastal Zone Management Act

The State of Alaska, Office of Management and Budget, Division of Governmental Coordination found this action to be consistent with the approved Alaska Coastal Zone Management Program.

Endangered Species Act and Essential Fish Habitat

Consultation under the Endangered Species Act was conducted with the U.S. Fish and Wildlife Service and National Marine Fisheries Service. The EPA determined that the actions are not likely to adversely affect any threatened or listed species. EPA has also made a determination that the actions have no adverse effects on Essential Fish Habitat.

State Water Quality Standards and State Certification

The State of Alaska, Department of Environmental Conservation, has certified under section 401 of the Clean Water Act, that the subject discharges under both general permits comply with the Alaska State Water Quality Standards and sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act.

Executive Order 12866

EPA has determined that this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

Paperwork Reduction Act

The information collection requirements of this permit were previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. The permit issued today, however, is not a ''rule'' subject to the requirements of 5 U.S.C. 553(b) and is therefore not subject to the RFA.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' (defined to be the same as ''rules'' subject to the RFA) on tribal, state, and local governments and the private sector. The permit issued today, however, is not a ''rule'' subject to the RFA and is therefore not subject to the requirements of UMRA.

Appeal of Permit

Any interested person may appeal the Log Transfer Facility General NPDES permits in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act. This appeal must be filed within 120 days of the permit effective date. The permit effective date is defined at 40 CFR 23.2 to be at 1:00 p.m. eastern time, two weeks after the date of publication in the **Federal Register**. Persons affected by a general NPDES permit may not challenge the conditions of the permit as a right of further EPA proceedings. Instead, they may either challenge the permit in court or apply for an individual NPDES permit and then request a formal hearing on the issuance or denial of an individual NPDES permit.

Dated: February 23, 2000.

Randall F. Smith,

Director, Office of Water, Region 10.

[FR Doc. 00–5501 Filed 3–6–00; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Advisory Committee was established by Public Law 98–09181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Monday, March 27, 2000, at 9:00 a.m. to 1:00 p.m.. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

AGENDA: This meeting will include a discussion of the future role of Ex-Im Bank in light of the evolving changes in the export credit agency, exporting and financial communities.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to March 21, 2000, Teri Stumpf, Room 1203, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3502 or TDD (202) 565–3377.

FURTHER INFORMATION: For information, contact Teri Stumpf, Room 1203, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3502.

John M. Niehuss,

General Counsel.

[FR Doc. 00–5520 Filed 3–6–00; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

February 29, 2000.

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, 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 May 8, 2000. 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 Approval No.: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast Station.

Form No.: FCC 301.

Type of Review: Revision.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 3,370.

Estimated Hours Per Response: 37–121 hours (time varies between contracting time and respondent burden dependent on the type of application submitted).

Frequency of Response: On occasion.

Cost to Respondents: $35,485,300.

Estimated Total Annual Burden Hours: 7,427.

Needs and Uses: FCC 301 is used to apply for authority to construct a new commercial AM, FM or TV broadcast station, or to make changes in the existing facilities of such a station. In addition, FM licensees or permittees may request, by application on FCC 301, upgrades on adjacent and co-channels, modifications to adjacent channels of the same class and downgrades to adjacent channels without first submitting a petition for rulemaking. All applicants using this one-step process must demonstrate that a suitable site exists which would comply with allotment standards with respect to minimum distance separation and city-grade coverage and which would be suitable for tower construction.

To receive authorization for commencement of Digital Television (''DTV'') operation, commercial broadcast licensees must file FCC 301 for a construction permit. This application may be filed anytime after receiving the initial DTV allotment but must be filed before the mid-point in a particular applicant's required construction period. The Commission will consider these applications as minor changes in facilities. Applicants will not have to supply full legal or financial qualification information.

This collection also includes the third party disclosure requirement of Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for new or major changes in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

On January 20, 2000, the Commission adopted a Report and Order in MM Docket Nos. 98–204 and 96–16 in the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding. This Report and Order modified the Commission's broadcast and cable EEO rules and policies consistent with the D.C. Circuit's decision in Lutheran Church. The new EEO rules ensure equal employment opportunity in the broadcast industry through vigorous outreach and prevention of discrimination. With the adoption of this Report and Order, the Commission reinstates the requirement that broadcast permittees file the FCC Form 396–A at the time they file an application for a new construction permit. The Commission has revised the FCC 301 to add a question to advise respondents that they are required to submit a 396–A at the time that they apply for a new construction permit.

The data is used by FCC staff to determine whether an applicant meets basic statutory requirements to become a Commission licensee and to ensure that the public interest would be served by grant of the application.

OMB Approval No.: 3060–0032.

Title: Application for Consent to Transfer Control of Entity Holding Broadcast Station License Construction Permit or License.

Form No.: FCC 315.

Type of Review: Revision of currently approved collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 1,591.

Estimated Hours Per Response: 12—48 hours (the burden hour time and contracting time varies depending on the type of application filed).

Frequency of Response: On occasion.

Cost to Respondents: $12,236,878.

Estimated Total Annual Burden: 2,546.

Needs and Uses: FCC Form 315 and applicable exhibits/explanations are required to be filed when applying for transfer of control of a corporation holding an AM, FM or TV broadcast station construction permit or license. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated.

This collection also includes the third party disclosure requirement of Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for transfer of control of license/permit. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application. Additionally, an applicant for transfer of control of license must broadcast the same notice over the station at least once daily on four days in the second week immediately following the tendering for filing of the application.

On January 20, 2000, the Commission adopted a Report and Order in MM Docket Nos. 98–204 and 96–16 in the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding. This Report and Order modified the Commission's broadcast and cable EEO rules and policies consistent with the D.C. Circuit's decision in Lutheran Church. The new EEO rules ensure equal employment opportunity in the broadcast industry through vigorous outreach and prevention of discrimination. With the adoption of this Report and Order, the Commission reinstates the requirement that broadcast permittees and licensees file the FCC Form 396–A at the time they file a transfer application. The Commission has revised the FCC 315 to add a question to advise respondents that they are required to submit a 396–A at the time that they apply for a transfer of a construction permit or license.

The data is used by FCC staff to determine whether the applicants meet basic statutory requirements to become a Commission licensee/permittee and to assure that the public interest would be served by grant of the application.

OMB Approval No.: 3060–0031.

Title: Application for Consent to Assignment of Broadcast License Construction Permit or License.

Form No.: FCC 314.

Type of Review: Revision of currently approved collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 1,591.

Estimated Hours Per Response: 12–48 hours (the burden hour time and contracting time varies depending on the type of application filed).

Frequency of Response: On occasion.

Cost to Respondents: $12,236,878.

Estimated Total Annual Burden: 2,546.

Needs and Uses: FCC Form 314 and applicable exhibits/explanations are required to be filed when applying for consent for assignment of an AM, FM or TV broadcast station construction permit or license, along with applicable exhibits and explanations. In addition, the applicant must notify the Commission when an approved assignment of a broadcast station construction permit or license has been consummated.

This collection also includes the third party disclosure requirement of Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for assignment of license/permit. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application. Additionally, an applicant for assignment of license must broadcast the same notice over the station at least once daily on four days in the second week immediately following the tendering for filing of the application.

On January 20, 2000, the Commission adopted a Report and Order in MM Docket Nos. 98–204 and 96–16 in the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies and Termination of the EEO Streamlining Proceeding. This Report and Order modified the Commission's broadcast and cable EEO rules and policies consistent with the D.C. Circuit's decision in Lutheran Church. The new EEO rules ensure equal employment opportunity in the broadcast industry through vigorous outreach and prevention of discrimination. With the adoption of this Report and Order, the Commission reinstates the requirement that broadcast permittees and licensees file the FCC Form 396–A at the time they file an assignment application. The Commission has revised the FCC 314 to add a question to advise respondents that they are required to submit a 396–A at the time that they apply for an assignment of a construction permit or license.

The data is used by FCC staff to determine whether the applicants meet basic statutory requirements to become a Commission licensee/permittee and to assure that the public interest would be served by grant of the application.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–5411 Filed 3–6–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

FCC Renews and Amends Charter of Network Reliability and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of renewal and amendment of charter.

SUMMARY: The Federal Communications Commission has renewed and amended the charter of its advisory committee, the ''Network Reliability and Interoperability Council'' (the ''Committee''). Under the amended charter, the objectives of the Committee are as follows.

The Committee will continue its work relating to the year 2000 date rollover (Y2K) on telecommunications networks, including a review of the effectiveness of the work done prior to the date change as well as an analysis of the impact of the date change on those networks. The Committee will make recommendations on any future actions that should be taken. The Committee will evaluate, and report on, the reliability of public telecommunications network services in the United States, including the reliability of packet switched networks.

During the charter of the previous Committee, interested participants developed guidelines that were intended to improve the quality of outage reporting for those carriers currently required to report outages. The Committee will evaluate those guidelines and data provided in accordance with those guidelines and, if appropriate, recommend further refinements to those guidelines.

During the charter of the previous Committee, interested participants recommended that the FCC adopt a voluntary reporting program, administered by the National Communications System, to gather outage data for those telecommunications and information service providers not currently required to report outages. The Committee will monitor this process, analyze the data obtained from the voluntary trial and report on the efficacy of that process, as well as the on-going reliability of such services.

The Committee will evaluate existing network outage reporting requirements and make recommendations for improving, or where appropriate initiating, reporting requirements for: (i) Telecommunications carriers currently required to report outages; and (ii) telecommunications carriers not presently required to report service outages.

Building on the work of the previous Committee, as appropriate, the Committee will continue to develop best practices recommendations and refine or modify, as appropriate, best practices recommendations developed by previous Committees.

The Committee will continue to evaluate and report on the extent to which telecommunications common carriers are using best practices recommendations and applicable American National Standards Institute Committee T–1 standards, and identify ways to increase the use of best practices and relevant Committee T–1 standards by telecommunications service providers.

The Committee will make recommendations concerning technical standards to ensure spectral compatibility in wireline networks and facilitate the deployment of xDSL and associated technologies.

The Committee will make recommendations concerning the development of spectrum management processes within the wireline network that facilitate competition among CLECs and ILECs using different technologies while still maintaining network integrity. The Committee will make recommendations with respect to such additional topics as the Commission may specify. These topics may include requests for recommendations and technical advice on interoperability issues that may arise from convergence and digital packet networks, and how the Commission may best fulfill its responsibilities, particularly with respect to national defense and safety of life and property (including law enforcement) under the Communications Act.

The Committee will assemble data and other information, perform analyses, and provide recommendations and advice to the Federal Communications Commission and the

telecommunications industry concerning the foregoing.

Building on the accomplishments of this advisory Committee, and in view of the purposes of the Committee under the amended charter, the Commission has selected members of the Committee on the basis of their technical knowledge, the impact of their activities on network reliability, and the impact of network availability on the constituencies the members represent. Any new members will be chosen so that the largest possible diversity of interests, given the functions to be performed and the need for practical considerations of administrative efficiency, will be represented.

The continuation of the Committee is necessary and in the public interest to prepare recommendations for the FCC and the communications industry, and to help coordinate industry and government efforts to ensure continued reliability as the number, and types, of networks connected with public telecommunications networks continue to increase. Continuation is also necessary to prepare recommendations to the industry and to the FCC to forestall, and minimize the impact of, future network outages. In addition, continuation of the Committee is necessary so that the Commission, and the telecommunications industry, can effectively monitor outages and help assure availability of crucial communications services.

The Committee was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from consumer and other organizations to develop and recommend measures that will assure optimal reliability, interoperability, accessibility and interconnectivity to public telecommunications networks.

DATES: Renewal effective January 6, 2000.

FOR FURTHER INFORMATION CONTACT: Kent Nilsson at 202–418–0845 or TTY 202–418–2989.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–5408 Filed 3–6–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability and Interoperability Council; Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons of the first meeting of the Network Reliability and Interoperability Council (Council) under its charter renewed as of January 6, 2000. The meeting will be held at the Federal Communications Commission in Washington, D.C.

DATES: Monday, March 20, 2000 at 10:00 a.m. to 12:30 p.m.

ADDRESSES: Federal Communications Commission, 445 12th St. S.W. Room TW–C305, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kent Nilsson at 202–418–0845 or TTY 202–418–2989.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to explore and recommend measures that would enhance network reliability.

The Council will consider a report on the success of its efforts to ameliorate the possible effects of the year 2000 date change on communications networks, and will also consider reports from the network reliability working groups. In addition, the Council will discuss the modifications that have been made to the Council's charter and how those modifications should be addressed, and any additional issues that may come before it.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. Admittance, however, will be limited to the seating available. The public may submit written comments before the meeting to Kent Nilsson, the Commission's Designated Federal Officer for the Network Reliability and Interoperability Council, by email (*KNILSSON@FCC.GOV*) or U.S. mail (7–B452, 445 12th St. SW, Washington, D.C. 20554). Real Audio and streaming video Access to the meeting will be available at http://www.fcc.gov/.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–5409 Filed 3–6–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 00–500]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On March 3, 2000, the Commission released a public notice announcing the March 21 and 22, 2000, meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

FOR FURTHER INFORMATION CONTACT: Jeannie Grimes at (202) 418–2320 or jgrimes@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 Twelfth Street, SW, Suite 6A320, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: March 3, 2000.

The next meeting of the North American Numbering Council (NANC) will be held on Tuesday, March 21, 2000, from 8:30 a.m., until 5:00 p.m., and on Wednesday, March 22, 2000, from 8:30 a.m., until 12 noon. The meeting will be held at the Federal Communications Commission, Portals II, 445 Twelfth Street, SW, Room TW–C305, Washington, DC 20554.

This meeting is open to the members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Jeannie Grimes at the address under **FOR FURTHER INFORMATION CONTACT** stated above.

Proposed Agenda

Tuesday, March 21, 2000

1. Approval of February 22–23, meeting minutes.

2. North American Numbering Plan Administration (NANPA) Report. Central Office (CO) Code assignment activity update.

3. North American Numbering Plan Administration (NANPA) Oversight Working Group Report. Status update on 1999 NANPA performance review. Review of NANPA intellectual and physical property rights issues and recommendation by the Legal Expertise Working Group.

4. Numbering Resource Optimization (NRO) Working Group Report. Update on State number pooling trials, and development of the Central Office Code Utilization Survey (COCUS) Hybrid requirements.

5. Local Number Portability Administration (LNPA) Working Group Report. Updates on Wireless Wireline Integration; Problem Identification Management (PIM); NPAC/SMS release status, and Slow Horse.

6. Cost Recovery Working Group Report.

7. Industry Numbering Committee (INC) Report.

8. Assumptions Issue Management Group Update.

9. Limited Liability Corporations (LLCs) and Number Portability Administration Centers (NPAC) activity update.

10. North American Numbering Plan Administration Billing and Collection Agent (NBANC) Report.

Wednesday, March 22, 2000

11. Steering Group Report.

12. Number Pooling Issue Management Group (IMG) Report. Pooling administrator status.

13. Discussion regarding possible creation of new Issue Management Groups to address Unified Messaging, and Rate Center Consolidation in the context of geographic splits.

14. Other Business.

15. Action Items and Decisions Reached.

Federal Communications Commission.

Gregory M. Cooke,

Assistant Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 00–5603 Filed 3–6–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2390]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

February 28, 2000.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking Proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, S.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by March 22, 2000. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Deployment of Wireline Services Advanced Telecommunications Capability (CC Docket No. 98–147) and Implementation of the Local Competition Provision of the Telecommunications Act of 1996 (CC Docket No. 96–98).

Number of Petitions Filed: 4.

Subject: Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147).

Number of Petitions Filed: 1.

Subject: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 (CC Docket No. 96–98).

Number of Petitions Filed: 16.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–5407 Filed 3–6–00; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2391]

Petitions for Reconsideration of Action in Rulemaking Proceeding

March 1, 2000.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full test of these documents are available for viewing and copying in Room CY–09A257, 445 12th Street, S.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–093800. Oppositions to these petitions must be filed by March 22, 2000. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems.

Number of Petitions Filed: 2.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–5480 Filed 3–6–00; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Thursday, March 9, 2000, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Final amendment to part 340—Restrictions on the Purchase of Assets from the Federal Deposit Insurance Corporation.

Discussion Agenda

Memorandum re: General Counsel's Opinion No. 12—Engaged in the Business of Receiving Deposits Other Than Trust Funds

Memorandum re: 1999 Program Performance Report.

Memorandum and resolution re: Amendments to Part 362—Activities of Insured State Banks and Insured Savings Associations; Part 337—Unsafe and Unsound Banking Practices; and Part 303—Filing

Procedures and Delegations of Authority.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements. Request for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary for the Corporation, at (202) 898–6757.

Dated: March 2, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Exective Secretary.

[FR Doc. 00–5579 Filed 3–3–00; 10:44 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1317–DR]

Alabama; 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 State of Alabama (FEMA–1317–DR), dated February 18, 2000, and related determinations.

EFFECTIVE DATE: February 18, 2000.

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 February 18, 2000, 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 State of Alabama, resulting from a severe winter storm on January 22–29, 2000, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Alabama.

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 assistance for debris removal (Category A), emergency protective measures (Category B), and utilities (Category F) under Public Assistance 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 Public Assistance will be limited to 75 percent of the total eligible costs. If Hazard Mitigation is determined to be 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.

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 Theodore A. Monette, Jr. 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 State of Alabama to have been affected adversely by this declared major disaster:

DeKalb, Cherokee, and Jackson Counties for debris removal (Category A), emergency protective measures (Category B), and utilities (Category F) under Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 00–5400 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1317–DR]

Alabama; 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 Alabama (FEMA–1317–DR), dated February 18, 2000, and related determinations.

EFFECTIVE DATE: February 23, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alabama is hereby amended to include Hazard Mitigation for the State of Alabama determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 18, 2000:

All counties in the State of Alabama 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.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 00–5401 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1316–DR]

Alaska; 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 State of Alaska (FEMA–1316–DR), dated February 17, 2000, and related determinations.

EFFECTIVE DATE: February 17, 2000.

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 February 17, 2000, 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 State of Alaska, resulting from severe winter storms and avalanches beginning on December 21, 1999, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Alaska.

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 Public 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 Public Assistance or Hazard Mitigation will 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.

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 William Lokey 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 State of Alaska to have been affected adversely by this declared major disaster:

Municipality of Anchorage, Kenai Peninsula Borough, Matanuska-Susitna Borough, and the Valdez-Cordova Census Area for Public Assistance.

All areas within the State of Alaska 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. 00–5398 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1316–DR]

Alaska; 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 Alaska (FEMA–1316–DR), dated February 17, 2000, and related determinations.

EFFECTIVE DATE: February 23, 2000.

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 the incident period for this disaster is closed effective February 23, 2000.

(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.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 00–5399 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1315–DR]

Georgia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia, (FEMA–1315-DR), dated February 15, 2000, and related determinations.

EFFECTIVE DATE: February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 15, 2000:

Decatur County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 00–5397 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1311–DR]

Georgia; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia (FEMA–1311–DR), dated January 28, 2000, and related determinations.

EFFECTIVE DATE: February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 28, 2000:

The counties of Catoosa, Greene, Jones, and Oglethorpe for debris removal (Category A), emergency protective measures (Category B), and utilities (Category F), under the Public Assistance 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.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 00–5403 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Fire Defense Deployment Analysis Project

AGENCY: Federal Emergency Management Agency (FEMA)/ United States Fire Administration (USFA).

ACTION: Notice of funds availability for cooperative agreement.

SUMMARY: FEMA gives notice of the availability of funds for research and develop to update a methodology on ''Fire Defense Deployment Analysis'', first developed by the Rand Corporation in 1968. We (FEMA) propose to enter a cooperative agreement to conduct research and to develop an updated/ current methodology.

DATES: Cooperative Agreement funds are immediately available. Requests for copies of the ''Assistance Application Package'' must be received by close of business, March 28, 2000.

ADDRESSES: Eligible/interested parties wishing to obtain a copy of the ''Assistance Application Package'' should contact: Gregory S. Blair, National Emergency Training Center, Building E, room 115, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1455, (telefax) (301) 447–1092, or (email) *greg.blair@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Gregory S. Blair, National Emergency Training Center, Building E, room 115, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1455, (telefax) (301) 447–1092, or (email) *greg.blair@fema.gov.*

SUPPLEMENTARY INFORMATION: The methodology concerned, ''Fire Defense Deployment Analysis'', was initially developed by the Rand Corporation in 1968, on behalf of the City of New York. The Department of Housing & Urban Development (HUD) funded and continued research on this methodology through the mid-1970's before discontinuing it. The current methodology has not been researched or updated since the mid-1970's, and is now over twenty-five years old. Therefore, FEMA, acting through the USFA, asks for help to conduct research and development on an updated/current methodology.

Qualifications: Interested sources wishing to support the National Emergency Training Center (NETC), U.S. Fire Administration (USFA), should be an ''Institution of Higher Learning'' (IHL) with the ability and knowledge resource base to conduct the review of the validity of public fire defense deployment methodologies that are currently referred to when identifying average public fire defense apparatus speed, point-to-point time/ distance and unit availability models. Interested sources should have extensive experience and demonstrated abilities to conduct detailed analytical public policy research efforts, and should have a professional staff with a wide variety of qualifications and demonstrated understanding and knowledge of the specified subject area. Specific qualifications include:

(1) Advanced degrees that include a wide variety of related fields such as: fire protection engineering, public policy or public administration, urban studies or urban planning and operations research;

(2) Knowledge and authority of fire defense deployment analysis models demonstrated through a variety of combined venues such as: published studies and reports, lectures, instruction at the university level and consultation, particularly as to the characteristics of local land-use patterns and other features of the physical environment as well as vehicular traffic densities and pertinent cultural or demographic issues that may impact public fire defenses;

(3) Knowledge and authority in operations research demonstrated through a variety of documented venues such as published studies and reports, lectures, instruction at the university level and consultation;

(4) Experience in the development and implementation of long-range fire defense planning and fire station location models.

Dated: February 29, 2000.

Carrye B. Brown,

U.S. Fire Administrator.

[FR Doc. 00–5402 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with § 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

Name: Technical Mapping Advisory Council.

Date of Meeting: March 13–14, 2000.

Place: National Geodetic Survey, 1315 East-West Highway, Silver Spring, MD 20910–3282.

Times: 8:00 a.m. to 5:00 p.m., both days.

Proposed Agenda

1. Call to Order and Announcements.
2. Action on Minutes of Previous Meetings.
3. Map Modernization Updates:
(a) Funding Issues.
(b) Map Service Center.
(c) Coastal and Riverine Erosion Study.
(d) Improving the Scoping Process.
4. Council Plans for Year 2000.
5. Council Discussion of Unmapped Areas.
6. Presentations by NGS:
(a) Recent MGS Experience with 3–D Mapping.
(b) Use of GPS to Establish Base Flood Elevations.
(c) Topo/Bathy Project.
7. New Business.
8. Adjournment.

Status: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., room 421, Washington, DC 20472, telephone (202) 646–2756 or by facsimile at (202) 646–4596.

SUPPLEMENTARY INFORMATION: This meeting is open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Ms. Sally P. Magee, Federal Emergency Management Agency, 500 C Street SW., room 442, Washington, DC 20472, telephone (202) 646–8242 or by facsimile at (202) 646–4596 on or before March 6, 2000.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved by the next Technical Mapping Advisory Council meeting.

Dated: March 1, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 00–5453 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1314–DR]

Louisiana; 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 Louisiana, (FEMA–1314–DR), dated February 15, 2000, and related determinations.

EFFECTIVE DATE: February 28, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Louisiana is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 15, 2000: Richland Parish for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Patricia K. Stahlschmidt,

Division Director, Infrastructure Division, Response and Recovery Directorate.

[FR Doc. 00–5404 Filed 3–6–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

[Docket No. 00–04]

Al Kogan d/b/a Galaway International v. World Express Shipping, Transportation and Forwarding Services, Inc. D/B/A W.E.S.T. Forwarding Services (FMC Lic. #3118–R); Notice of Filing of Complaint and Assignment

Notice is given that a complaint was filed by Al Kogan d/b/a Galaway International (''Complainant''), against World Express Shipping, Transportation and Forwarding Services, Inc. d/b/a W.E.S.T. Forwarding Services (FMC Lic. #3118–R) (''Respondent''). Complainant alleges that Respondent, engaged in the freight forwarding and shipping business as both an ocean freight forwarder and a non-vessel operating carrier, violated sections 10(b)(1), 10(b)(5), 10(b)(6)(E), 10(b)(12) and 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709(b)(1), 1709(b)(5), 1709(b)(6)(E), 1709(b)(12) and 1709(d)(1), (''1984 Act'') in connection with a shipment of a container of auto parts from Chicago, Illinois, to Moscow, Russia. Complainant alleges that these violations were caused by Respondent failing to follow Complainant's instructions to route the container through Kotka, Finland, thereby forcing Complainant to pay more than the original amount quoted by Respondent; by discriminating against Complainant in delaying the shipment to Kotka, causing Complainant to lose his customer and in refusing to release the container in Kotka, causing Complainant to incur demmurrage charges and damages and costs related to the eventual delivery of the goods; subjecting Complainant to unfair and discriminatory practices in connection with the adjustment and settlement of the claims involved with the container; subjecting Complainant to an unreasonable refusal to deal and undue and unreasonable prejudice by holding the container hostage in Kotka; and by improperly billing Complainant and refusing to cooperate with Complainant and thereby failing to establish, observe, and enforce just and reasonable practices relating to or connected with receiving, handling, storing or delivery property.

Additionally, Complainant alleges that Respondent violated the following Commission rules under 46 CFR Part 510 (1998): §§ 510.21(f)(1998), by placing false information on the involved shipping documents; 510.22(b)(1998), by withholding information concerning the shipment; 510.22(c)(1998), by failing to exercise due diligence concerning the shipment; 510.22(d)(1998), by preparing erroneous documents in connection with the shipment; 510.22(g)(1998), by failing to substantiate its invoice charges or to provide true copies of its underlying documents for its invoices when requested by the Complainant; 510.22(j)(1998), by failing to account for the overpayments, adjustments of charges, reductions in rates, insurance refunds and other sums due Complainant; 510.23(a)(1998), by failing to fully disclose Complainant's identity in Respondent's dealings with another carrier; 510.23(f)(1998), by causing duplicative compensation for services; and 510.23(h), by receiving compensation in connection with a shipment in which it has a beneficial interest.

Complainant requests that the Commission order Respondent to cease and desist from the aforesaid violations of the Act; to establish and put into force such practices as the Commission determines to be lawful and reasonable; to pay Complainant reparations in the sum of $250,000 with interest and attorney's fees and costs or such other sum as the Commission may determine to be proper as an award of reparation.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, deposition, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate road. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by March 2, 2001, and the final decision of the Commission shall be issued by July 2, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–5406 Filed 3–6–00; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and

§ 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 21, 2000.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Dennis A. Lind, Eden Prairie, Minnesota, individually and as trustee for four trusts; to acquire additional voting shares of Parkers Prairie Bancshares, Inc., Parkers Prairie, Minnesota, and thereby indirectly acquire additional voting shares of Midwest Bank, NA, Parkers Prairie, Minnesota, and Midwest Bank, Detroit Lakes, Minnesota.

Board of Governors of the Federal Reserve System, March 1, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–5462 Filed 3–6–00; 8:45 am]

BILLING CODE 6210–01–P

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. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 31, 2000.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. First Sterling Banks, Inc., Kennesaw, Georgia; to merge with Main Street Banks, Incorporated, Covington, Georgia, and thereby indirectly acquire Main Street Bank, Covington, Georgia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Home Bancshares, Inc., Conway, Arkansas, and its subsidiary, North Little Rock Bancshares, Inc., Conway, Arkansas; to acquire 100 percent of the voting shares of First Western Bank and Trust Company, Rogers, Arkansas. North Little Rock Bancshares, Inc., also has applied to become a bank holding company.

C. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Oswego Community Bank Employee Stock Ownership Plan, Oswego, Illinois; to become a bank holding company by retaining shares and acquiring up to 30 percent of the voting shares of Oswego Bancshares, Inc., Oswego, Illinois, and thereby indirectly acquire additional voting shares of Oswego Community Bank, Oswego, Illinois.

Board of Governors of the Federal Reserve System, March 1, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–5463 Filed 3–6–00; 8:45 am]

BILLING CODE 6210–01–P

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. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 31, 2000.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Advantage Bankshares, Inc., Village of North Palm Beach, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Advantage Bank (in organization), Village of North Palm Beach, Florida.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Klein Financial, Inc., Chaska, Minnesota; to acquire 100 percent of the voting shares of Preferred Bancshares, Inc., Big Lake, Minnesota, and thereby indirectly acquire Preferred Bank, Big Lake, Minnesota.

In connection with this application, Applicant also has applied to acquire Preferred Lenders, LLC, Big Lake, Minnesota, and thereby engage in mortgage banking activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, March 2, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–5499 Filed 3–6–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM.

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Friday, March 10, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendments to Regulation Y (Bank Holding Companies and Change in Bank Control) to implement the provisions of the Gramm-Leach-Bliley Act relating to financial activities permissible for financial holding companies and procedures for financial holding companies to engage in those activities.

2. Proposed amendments to Regulation Y (Bank Holding Companies and Change in Bank Control) concerning application of section 20 operating standards to financial holding companies.

3. Any items carried forward from a previously announced meeting.

Discussion Agenda: None. No Discussion Items are Scheduled for This Meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $6 per cassette by calling 202–452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: March 3, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–5605 Filed 3–3–00; 1:32 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM.

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 11:10 a.m., Friday, March 10, 2000, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 3, 2000

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–5606 Filed 3–3–00; 1:32 pm]

BILLING CODE 6210–01–P

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer (DLC) will meet on Sunday, April 9, 2000, through Wednesday, April 12, 2000, in Newport, Rhode Island. The sessions will take place from 8 p.m. until 10 p.m. on Sunday, 8:30 a.m. until 5 p.m. on Monday and Tuesday and from 8:30 a.m. until 3:30 p.m. on Wednesday. The meeting will be held at the Doubletree Islander Hotel, Goat Island, Newport, Rhode Island. The purpose of this meeting is to discuss the Federal Depository Library Program. All sessions are open to the public.

A limited number of hotel rooms have been reserved at the Doubletree Islander Hotel for anyone needing hotel accommodations. Telephone the hotel directly at (401) 849–2600. Please specify the U.S. Government Printing Office when you contact the hotel. Room cost per night is $86.24, single/double through March 18, 2000.

Michael F. DiMario,

Public Printer.

[FR Doc. 00–5434 Filed 3–6–00; 8:45 am]

BILLING CODE 1520–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Advisory Committee to the Director, Centers for Disease Control and Prevention: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Advisory Committee to the Director, Centers for Disease Control and Prevention, of the Department of Health and Human Services, has been renewed for a 2-year period beginning February 1, 2000, through February 1, 2002.

For further information, contact Kathy Cahill, Executive Secretary, Advisory Committee to the Director, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, m/s D–23, Atlanta, Georgia 30333. Telephone 404/639–7060, fax 404/639–7171, e-mail kac1@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: March 1, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–5455 Filed 3–6–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: Family and Intimate Violence Prevention Subcommittee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: ACIPC Family and Intimate Violence Prevention Subcommittee (FIVP).

Time and Date: 12:30 p.m.–5 p.m., March 21, 2000.

Place: Radisson Hotel Atlanta-Northlake, 4156 LaVista Road, Atlanta, Georgia 30084.

Status: Open to the public, limited only by the space available.

Purpose: To provide and make recommendations to ACIPC and the Director, National Center for Injury Prevention and Control, regarding feasible goals for prevention and control of family and intimate violence and sexual assault. The Subcommittee will make recommendations regarding policies, strategies, objectives and priorities.

Matters To Be Discussed: The Subcommittee will review, discuss, and approve the Family and Intimate Violence Prevention Team's (FIVPT) FY 2001 budget priorities and the Team's proposed FY 2002 budget priorities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Ileana Arias, Ph.D., Team Leader, FIVPT, Division of Violence Prevention, NCIPC, CDC, 4770 Buford Highway, NE, M/S K60, Atlanta, Georgia 30341–3724, telephone 770/488–4410.

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: March 1, 2000.

Carolyn J. Russell,

Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–5454 Filed 3–6–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0726]

Agency Information Collection Activities; Proposed Collection; Comment Request; General Licensing Provisions: Changes to an Approved Application, Labeling, and Revocation and Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirement relating to the general licensing provisions regarding changes to an approved application, labeling, and revocation and suspension.

DATES: Submit written comments on the collection of information by May 8, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

General Licensing Provisions: Changes to an Approved Application, Labeling, and Revocation and Suspension (OMB Control Number 0910–0315)—Extension

Under Section 351 of the Public Health Services Act (PHS Act) (42 U.S.C. 262), manufacturers of biological products must submit a license application for FDA review and approval prior to marketing a biological product in interstate commerce. Licenses may be issued only upon showing that the establishment and the products for which a license is desired meets standards prescribed in regulations designed to insure the continued safety, purity, and potency of such products. All such licenses are issued, suspended, and revoked as prescribed by regulations.

In part 601 (21 CFR part 601), § 601.2(a) requires a manufacturer of a biological product to submit an application with accompanying information, including labeling information, to FDA for approval to market a product in interstate commerce. Section 601.12(b), (c), and (d) requires applicants to follow specific procedures in informing FDA of each change, established in an approved license application, in the product, production process, quality controls, equipment, facilities, or responsible personnel depending on the potential for the change to have a substantial, moderate, minimal or no adverse effect on the safety or effectiveness of the product. Section 601.12(e) requires

applicants to submit a protocol, or change to a protocol, as a supplement requiring FDA approval prior to distributing the product. Section 601.12(f)(1), (f)(2), and (f)(3) requires applicants to follow specific procedures in reporting labeling changes to FDA. Section 601.12(f)(4) requires advertising and promotional labeling and any changes to be reported to FDA. Section 601.45 requires applicants to submit to the agency for consideration, during the preapproval review period, copies of all promotional materials, including promotional labeling as well as advertisements. In addition to §§ 601.2 and 601.12, there are other regulations that relate to certain information submitted in a license application or supplement as follows: Part 640 (21 CFR part 640), specifically §§ 640.6, 640.17, 640.21(c), 640.22(c), 640.25(c), 640.56(c), 640.64(c), 640.74(a), and (b)(2); 21 CFR 660.51(a)(4) and 680.1(b)(2)(iii) and (c). The burden associated with the information collection requirements in these regulations is included in the burden estimate for § 601.2, reported under OMB Control No. 0910–0427, and § 601.12 in table 1 of this document. Sections 600.15(b) and 610.53(d) require the submission of a request for an exemption or modification regarding the temperature requirements during shipment and from dating periods, respectively, for certain biological products. Section 601.25(b) requests interested persons to submit, for review and evaluation by an advisory review panel, published and unpublished data and information pertinent to a designated category of biological products that have been licensed prior to July 1, 1972. Section 601.26(f) requests that licensees submit to FDA a written statement intended to show that studies adequate and appropriate to resolve questions raised about a biological product have been undertaken for a product if designated as requiring further study under the reclassification procedures. Section 601.5(a) requires a licensee to give notice of its intention to discontinue manufacture of a product or all products. Section 601.6(a) requires the licensee to notify selling agents and distributors upon suspension of its license, and provide FDA with records of such notification.

Form FDA 2567 is used by manufacturers of licensed biological products to submit labeling (*e.g.,* circulars, package labels, container labels, etc.) and labeling changes for FDA review and approval. The labeling information is submitted with the form for license applications, supplements, or as part of an annual report. Form FDA 2567 is also used for the transmission of advertisements and promotional labeling. Form FDA 2567 serves as an easy guide to assure that the manufacturer has provided the information required for expeditious handling of their labeling by the Center for Biologics Evaluation and Research (CBER). For advertisements and promotional labeling, manufacturers of licensed biological products may submit to CBER either Form FDA 2567 or 2253. Form FDA 2253 was previously used only by drug manufacturers regulated by the Center for Drugs Evaluation and Research. In August of 1998, FDA revised and harmonized Form FDA 2253 to enable the form to be used to transmit specimens of promotional labeling and advertisements for biological products as well as for prescription drugs and antibiotics. The revised, harmonized form updates the information about the types of promotional materials and the codes that are used to clarify the type of advertisement or labeling submitted; clarifies the intended audience for the advertisements or promotional labeling (*e.g.,* consumers, professionals, news services); and helps ensure that the submission is complete.

The number of respondents is based on the estimated annual number of manufacturers that submitted the required information to FDA. There are an estimated 350 licensed biologics manufacturers. However, not all manufacturers will have any submissions in a given year and some may have multiple submissions. The total annual responses is based on the estimated number of submissions (*i.e.,* license applications, labeling and other supplements, protocols, advertising and promotional labeling, notifications) received annually by FDA. The rate of submissions are not expected to change significantly in the next few years. The hours per response are based on past FDA experience with the various submissions or notifications. Additional information regarding these estimates is provided below as necessary.

Under § 601.2(a), the total annual responses is based on the numbers of applications submitted to FDA for approval to market a biological product. The estimated burden hours include the time required to fill out the form and collate the documentation. The estimated burden hours to prepare the labeling information submitted with a license application are included in the burden hours to submit a license application which are reported under OMB Control No. 0910–0427.

Under § 601.12(f)(1), (f)(2), and (f)(3), the estimated burden hours include the time to prepare the supplement, fill out the form, and collate the documentation.

Under §§ 601.12(f)(4) and 601.45, manufacturers of biological products may use either Form FDA 2567 or Form FDA 2253 to submit advertising and promotional labeling. In fiscal year 1999, CBER received 3,784 submissions of advertising and promotional labeling from 114 manufacturers. FDA estimates that approximately 55 percent of those submissions were received with Form FDA 2567 resulting in an estimated 2,081 submissions by 63 manufacturers. The estimated burden hours include the time to prepare the submission, fill out the form, and collate the documentation. The burden hours for the remaining submissions received using Form FDA 2253 are reported under OMB Control No. 0910–0376.

Under §§ 601.12(b) through (d), and 601.12(e), the estimated burden hours include the time to prepare the appropriate supplement or protocol, respectively, and collate the documentation.

Under §§ 600.15(b) (21 CFR 600.15(b)) and 610.53(d), FDA receives very few requests for an exemption or modification to the requirements, therefore, FDA has estimated one respondent per year in table 1 of this document to account for the rare instance in which a request may be made. The estimated burden hours include the time to prepare the request for modification or exemption.

Under § 601.25(b)(3), FDA estimates no burden for this regulation because all requested data and information had been submitted by 1974. Under § 601.26(f), FDA estimates no burden for this regulation because there are no products designated to require further study and none are predicted in the future. However, based on the possible reclassification of a product, the labeling for the product may need to be revised, or a manufacturer, on its own initiative, may believe further study is necessary. As a result, any changes to product labeling would be reported under § 601.12. The information collection requirements for § 601.12 are reported under OMB control number 0910–0315.

Under § 601.5(a), the total annual responses are based on the estimated annual number of notifications received by FDA to discontinue either an establishment and/or product license(s). The estimated burden hours include the time to prepare and submit a letter of discontinuance.

Under § 601.6(a), the number of respondents (21) is based on FDA estimates that establishments would need to notify an average of 20 selling agents and distributors of such suspension and provide FDA with the records of such notification. The number of respondents is based on the estimated annual number of suspensions by FDA of an establishment or product license(s). The estimated burden hours includes the time to prepare a notification letter and submit record of such notification to FDA.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Form FDA No.	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total Hours
601.2(a)	2567 and 356h [2]	17	3.71	63	2	126
601.12(f)(1)	2567	12	1	12	40	480
601.12(f)(2)	2567	10	1	10	20	200
601.12(f)(3)	2567	70	1.43	100	10	1,000
601.12(f)(4) and 601.45	2567	63	33.03	2,081	10	20,810
601.12(b)(1) and (b)(3)	356 h [2]	190	4.75	903	80	72,240
601.12(c)(1) and (c)(3)	356h [2]	98	2.60	255	50	12,750
601.12(c)(5)	356h [2]	34	1.21	41	50	2,050
601.12(d)	356h [2]	166	1.37	227	10	2,270
601.12(e)	356h [2]	14	1.43	20	20	400
600.15(b)	356h [2]	1	1	1	8	8
610.53(d)	356h [2]	1	1	1	8	8
601.25(b)(3)	NA	0	0	0	0	0
601.26(f)	NA	0	0	0	0	0
601.5(a)	NA	33	1	33	.33	11
601.6(a)	NA	2	10.50	21	.33	7
Total						112,360

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] The burden hours for the use of Form FDA 356h are reported under OMB Control No. 0910–0427.

Dated: February 29, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–5416 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0725]

Agency Information Collection Activities; Proposed Collection; Comment Request; Interstate Shellfish Dealers Certificate

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on Form 3038, ''Interstate Shellfish Dealer's Certificate.''

DATES: Submit written comments on the collection of information by May 8, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Interstate Shellfish Dealers Certificate—(OMB Control Number 0910–0021)—Extension

Under 42 U.S.C. 243, FDA is required to cooperate with and aid State and local authorities in the enforcement of their health regulations and is authorized to assist States in the prevention and suppression of

communicable diseases. Under this authority, FDA participates with State regulatory agencies, some foreign nations, and the molluscan shellfish industry in the National Shellfish Sanitation Program (NSSP). The NSSP is a voluntary, cooperative program to promote the safety of molluscan shellfish by providing for the classification and patrol of shellfish growing waters and for the inspection and certification of shellfish processors. Each participating State and foreign nation monitors its molluscan shellfish processors and issues certificates for those that meet the State or foreign shellfish control authority's criteria. Each participating State and nation provides a certificate of its certified shellfish processors to FDA on Form FDA 3038, ''Interstate Shellfish Dealer's Certificate.'' FDA uses this information to publish the ''Interstate Certified Shellfish Shippers List,'' a monthly comprehensive listing of all molluscan shellfish processors certified under the cooperative program. If FDA did not collect the information necessary to compile this list, participating States would not be able to identify and keep out shellfish processed by uncertified processors in other States and foreign nations. Consequently, the NSSP would not be able to control the distribution of uncertified and possibly unsafe shellfish in interstate commerce, and its effectiveness would be nullified.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

Form No.	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
FDA 3038	35	58	2,036	.10	204

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

This estimate is based on the numbers of certificates received in 1999.

Dated: February 29, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–5469 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2553]

Agency Information Collection Activities; Announcement of OMB Approval; Citizen Petition—21 CFR 10.30

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Citizen Petition—21 CFR 10.30'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 10, 1999 (64 FR 69271), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0183. The approval expires on February 28, 2003. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: February 29, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–5418 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2875]

Agency Information Collection Activities; Announcement of OMB Approval; Blood Establishment Registration and Product Listing—Form FDA 2830

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Blood Establishment Registration and Product Listing—Form FDA 2830'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 20, 1999 (64 FR 71144), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0052. The approval expires on February 28, 2003. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: February 29, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–5466 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00F–0812]

Bayer Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing

that Bayer Co. has filed a petition proposing that the food additive regulations be amended both to provide for the safe use of dimethyl dicarbonate (DMDC) in noncarbonated juice beverages containing up to and including 100 percent juice and to also provide for a more descriptive term, in place of ''inhibitor of yeast'', for the safe use of DMDC.

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0A4718) has been filed by Bayer Co., c/o McKenna & Cuneo LLP, 1900 K St., NW., Washington, DC 20006–1108. The petition proposes to amend the food additive regulations in § 172.133 *Dimethyl dicarbonate* (21 CFR 172.133) both to provide for the safe use of DMDC in noncarbonated juice beverages containing up to and including 100 percent juice and also to provide for a more descriptive term, in place of ''inhibitor of yeast'', for the safe use of DMDC.

The agency has determined under 21 CFR 25.32(k) and 21 CFR 25.30(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: February 22, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–5468 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00F–0813]

Tritex Co., Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Tritex Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium xylene sulfonated as a component of paper and paperboard intended to contact food.

FOR FURTHER INFORMATION CONTACT: Mark Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0B4719) has been filed by Tritex Co., Inc., 1001 Boul. Industriel, Saint-Eustache (Quebec), CANADA J7H 6C3. The petition proposes to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of sodium xylene sulfonated as a component of paper and paperboard intended to contact food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: February 22, 2000.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–5419 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0018]

Orthopedic Devices; Reclassification of the Knee Joint Patellofemorotibial Metal/Polymer Porous-Coated Uncemented Prosthesis and the Knee Joint Femorotibial (Uni-compartmental) Metal/Polymer Porous-Coated Uncemented Prosthesis

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of panel recommendation.

SUMMARY: The Food and Drug Administration (FDA) is announcing for public comment two recommendations of the Orthopedic and Rehabilitation Devices Panel (the Panel) to reclassify the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis from class III into class II. The Panel made these recommendations after reviewing the reclassification petition submitted by the Orthopedic Surgical Manufacturers Association (OSMA) and other publicly available information. FDA is also announcing for public comment its tentative findings on the Panel's recommendations. After considering any public comments on the Panel's recommendations and FDA's tentative findings, FDA will approve or deny the reclassification petition by order in the form of a letter to the petitioner. FDA's decision on the reclassification petition will be announced in the **Federal Register**.

DATES: Submit written comments by June 7, 2000.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Peter G. Allen, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION:

I. Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), as amended by the Medical Device Amendments of 1976 (the amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629), and the Food and Drug Administration Modernization Act of 1997 (the FDAMA) (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most

preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations.

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Reclassification of classified postamendments devices is governed by section 513(f)(2) of the act. This section provides that FDA may initiate the reclassification of a device classified into class III under section 513(f)(1) of the act, or the manufacturer or importer of a device may petition the Secretary of Health and Human Services (the Secretary) for the issuance of an order classifying the device in class I or class II. FDA's regulations in § 860.134 (21 CFR 860.134) set forth the procedures for the filing and review of a petition for reclassification of such class III devices. In order to change the classification of the device, it is necessary that the proposed new class have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

Under section 513(f)(2)(B)(i) of the act, the Secretary may, for good cause shown, refer a petition to a device classification panel. The Panel shall make a recommendation to the Secretary respecting approval or denial of the petition. Any such recommendation shall contain: (1) A summary of the reasons for the recommendation, (2) a summary of data upon which the recommendation is based, and (3) an identification of the risks to health (if any) presented by the device with respect to which the petition was filed.

II. Regulatory History of the Devices

The knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis intended to be implanted to replace the knee joint or part of the knee joint, respectively, are postamendments devices classified into class III under section 513(f)(2) of the act. Therefore, the devices cannot be placed in commercial distribution for implantation to replace the knee joint or part of the knee joint, respectively, unless they are reclassified under section 513(f)(2), or subject to an approved premarket approval application (PMA) under section 515 of the act.

This action is taken in accordance with section 513(f)(2) of the act and § 860.134, based on information submitted in a petition for reclassification by the OSMA received on July 28, 1997, requesting reclassification of the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis from class III into class II (Ref. 1). Consistent with the act and the regulation, FDA referred the petition to the Panel for its recommendation on the requested changes in classification.

III. Device Descriptions

The following device descriptions are based on the Panel's recommendation and the agency's review.

A. Knee Joint Patellofemorotibial Metal/polymer Porous-Coated Uncemented Prosthesis

A knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis is a device intended to be implanted to replace a knee joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral component made of a cobalt-chromium-molybdenum (Co-Cr-Mo) alloy or a surface hardened titanium-aluminum-vanadium (Ti-6A1-4V) alloy, a tibial component made of an ultra-high molecular weight polyethylene (UHMWPe) articulating bearing surface fixed to a metal base made of Co-Cr-Mo or Ti-6A1-4V alloy, and a patellar resurfacing component made of an UHMWPe component fixed to a metal base made of a Co-Cr-Mo- or a Ti-6A1-4V alloy. The femoral component, tibial base, and patellar base have a substrate porous coating made of, in the case of Co-Cr-Mo components, beads of the same alloy or commercially pure titanium powder; and in the case of Ti-6Al-4V components, beads or fibers of commercially pure titanium or Ti-6A1-4V alloy, or commercially pure titanium powder. The porous coating has a volume porosity between 30 to 70 percent, an average pore size between 100 to 1,000 microns, interconnecting porosity, and a porous coating thickness of 600 to 1,500 microns. This generic type of device is designed to achieve biological fixation to bone without the use of bone cement. This device description does not include mobile bearing knee prostheses.

B. Knee Joint Femorotibial (Uni-compartmental) Metal/polymer Porous-Coated Uncemented Prosthesis

A knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prothesis is a device intended to be implanted to replace part of a knee joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surface. It has no linkage across the joint. This generic type of device includes prostheses that have a femoral component made of a cobalt-chromium-molybdenum (Co-Cr-Mo) alloy or a surface hardened titanium-aluminum-vanadium (Ti-6A1-4V) alloy and tibial component composed of an ultra-high molecular weight polyethylene fixed to a metal base made of a Co-Cr-Mo or a surface hardened Ti-6A1-4V alloy. The femoral component and tibial base have a substrate porous coating made of, in the case of Co-Cr-Mo components, beads of the same alloy or commercially pure titanium powder, and in the case of Ti-6A1-4V components, beads or fibers of commercially pure titanium or Ti-6A1-4V alloy, or commercially pure titanium powder. The porous coating has volume porosity between 30 to 70 percent, an average pore size between 100 to 1,000 microns, interconnecting porosity, and a porous coating thickness of 600 to 1,500 microns. This generic type of device is designed to achieve biological fixation to bone without the use of bone cement. This device description does not include mobile bearing knee prostheses.

IV. Recommendations of the Panel

At a public meeting on January 12 and 13, 1998, the Panel recommended unanimously that the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and recommended (five to three) that

the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis be reclassified from class III to class II (Ref. 2). The Panel believed that class II with the special controls (FDA recognized consensus standards and FDA guidance documents for both devices, and postmarket surveillance for only the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis) would provide reasonable assurance of the safety and effectiveness of the devices.

V. Risks to Health

After considering the information in the petition, the Panel's deliberations, the published literature, and the Medical Device Reports, FDA has evaluated the risks to health associated with the use of the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis. FDA now believes that the following are risks to health associated with use of the devices: infection, adverse tissue reaction, pain and/or loss of function, and revision. FDA notes that these risks to health are also associated with the use of the cemented versions of total and partial knee joint prostheses.

A. Infection

Infection is a potential risk to health associated with all surgical procedures and implanted devices, and it occurs equally in patients implanted with cemented and uncemented knee joint prostheses (Ref. 1). The best defenses against infection are preventative measures, including selection of patients without known local and/or systemic infection, administration of perioperative antibiotics, implantation of a sterilized device, and strict adherence to sterile surgical technique.

B. Adverse Tissue Reaction

Adverse tissue reaction is a potential risk to health associated with all implanted devices (Ref. 1). If the materials used in the manufacture of knee prostheses are not biocompatible, the patient could have an adverse tissue reaction. Knee prostheses are made of implant materials with an established long history of safe use. In addition, the biocompatibility of porous-coated implant materials has been shown to be comparable to those of the ''as cast'' noncoated material.

C. Pain and/or Loss of Function

Pain and loss of knee function can occur with any knee arthroplasty. Some of the same kinds of device-related complications causing pain and/or loss of function are associated with the implantation of both cemented and uncemented knee prostheses. These complications include early loosening due to inappropriate patient and/or device selection, inappropriate surgical technique and/or poor bone quality; some forms of metal and/or polyethylene wear which may cause osteolysis (dissolution of bone); and component disassembly, fracture, and/or failure. Dislocation and instability of a knee prosthesis may be due to either inappropriate surgical technique and/or component design or failure. However, other device-related complications resulting in pain and/or loss of function are directly or uniquely related to the porous coating(s) of uncemented knee prosthesis components. These complications include incomplete and/or slow biological ingrowth of the porous coating, resulting in pain and dislocation/instability of the joint, and delamination of porous coating from the prosthesis components. Also, inadequate design and/or testing of the metal backing of the patellar component of uncemented knee prostheses may cause dislocation and instability, which may result in pain and/or loss of function.

D. Revision

The incidence of revision for uncemented knee prostheses is comparable to the revision rates of cemented total knee arthroplasty (Ref. 1). The major causes for revision of uncemented knee prostheses are failure of the metal-backed patellar component or incomplete tibial fixation.

VI. Summary of the Reasons for the Recommendations

After considering the data and information contained in the petition and provided by FDA, the open discussions during the Panel meeting, and the Panel members' personal knowledge of and clinical experience with the devices, the Panel gave the following reasons in support of its recommendations to reclassify the two generic type devices, the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis intended to replace a knee joint or part of a knee joint, respectively, from class III into class II. The Panel believed that both of these devices should be reclassified into class II because special controls, in addition to general controls, provide reasonable assurance of the safety and effectiveness of the devices, and there is sufficient information to establish special controls to provide such assurance.

VII. Summary of Data Upon Which the Panel Recommendations Are Based

In addition to the potential risks to health of the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis, described in Section V., there is reasonable knowledge of the benefits of the devices. Both cemented and uncemented knee prostheses provide a decrease in pain or cessation of pain and increased mobility and function, post-operatively resulting in an overall improved quality of patient life. Specific benefits of uncemented knee prostheses are the absence of risks associated with the use of bone cement (e.g., embolism and bone cement breakdown) and easier revision, if revision should become indicated due to loosening.

VIII. Special Controls

FDA believes that the special controls identified below, in addition to general controls, are adequate to control the identified risks to health described for the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis. FDA agrees with the Panel that FDA recognized consensus standards and the FDA guidances are appropriate special controls to reasonably assure the safety and effectiveness of both devices. However, FDA disagrees with the Panel that postmarket surveillance is an appropriate special control to reasonably assure the safety and effectiveness of the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis

In their deliberations, the panel stated that it was important that adverse device outcomes be reported to FDA. The panel thought that adverse device outcomes should be tracked through postmarket surveillance. FDA agrees with the Panel that adverse device outcomes should be reported to FDA. However, FDA believes that another postmarket mechanism better addresses the Panel's concern that adverse device outcomes should be reported to FDA. FDA believes that the existing mandatory medical device reporting (MDR) system is the appropriate mechanism to report such adverse

events. Therefore, postmarket surveillance is unnecessary to address the Panel's concerns and to reasonably assure the safety and effectiveness of the device.

Based on the available information, FDA identified the following 11 FDA recognized American Society for Testing and Materials (ASTM) consensus standards and 4 FDA guidance documents as special controls to reasonably assure the safety and effectiveness of both devices:

A. ASTM Consensus Standards

1. ''ASTM F 67–95, Standard Specifications for Unalloyed Titanium for Surgical Implants Applications'';
2. ''ASTM F 75–98, Standard Specification for Cast Cobalt-28 Chromium-6 Molybdenum Alloy for Surgical Implant Applications'';
3. ''ASTM F 136–96, Standard Specification for Wrought Titanium-6 Aluminum-4 Vanadium ELI (Extra Low Interstitial) Alloy (R56401) for Surgical Implant Application'';
4. ''ASTM F 648–98, Standard Specification for Ultra-High-Molecular-Weight Polyethylene Powder and Fabricated Form for Surgical Implants'';
5. ''ASTM F 1044–95, Standard Test Method for Shear Testing of Porous Metal Coatings'';
6. ''ASTM F 1147–95, Standard Test Method for Tension Testing of Porous Metal Coatings'';
7. ''ASTM F 1160–91, Standard Test Method for Constant Stress Amplitude Fatigue Testing of Porous Metal-Coated Metallic Materials'';
8. ''ASTM F 1377–98, Standard Specification for Cobalt-28 Chromium-6 Vanadium Powder for Coating of Orthopedic Implants'';
9. ''ASTM F 1580–98, Standard Specification for Titanium and Titanium-6% Aluminum-4% Vanadium Alloy Powders for Coatings of Surgical Implants'';
10. ''ASTM F 1672–95, Standard Specification for Resurfacing Patellar Prosthesis''; and
11. ''ASTM F 1800–97, Standard Test Method for Cyclic Fatigue Testing of Metal Tibial Tray Components of Total Knee Joint Replacements.''

The ASTM standards define material specifications and testing methods for the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartment) metal/polymer porous-coated uncemented prosthesis. Adherence to these standards and comparison of the results from these standard test methods can control the risks to health of adverse tissue reaction, pain and/or loss of function, and revision, by having the manufacturer use surgical implant quality materials and assuring that the device has acceptable performance through mechanical testing.

ASTM standards may be obtained from ASTM Customer Services, 100 Barr Harbor Dr., West Conshohocken, PA 19428, telephone 610–832–9585. ASTM has a site on the Internet at the address http://www.astm.org.

B. Guidance Documents

1. ''Guidance for the Preparation of Premarket Notifications (510(k)s) for Cemented, Semi-Constrained Total Knee Prostheses.'' (Facts-on-Demand #830);
2. ''Guidance Document for Testing Orthopedic Implants with Modified Metallic Surfaces Apposing Bone or Bone Cement.'' (Facts-on-Demand #827);
3. ''Guidance Document for Testing Non-articulating, Mechanically Locked' Modular Implant Components.'' (Facts-on-Demand #916); and
4. ''Preparation of Premarket Notification (510(k)) Applications for Orthopedic Devices.'' (Facts-on-Demand #832).

The FDA guidance documents provide guidance on how to meet general orthopedic device premarket notification (510(k)) requirements, including biocompatibility testing, sterility testing, mechanical performance testing, and physician and patient labeling for the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis. Use of the pre-clinical section of the FDA guidance documents can control the risks to health of adverse tissue reaction, infection, pain and/or loss of function, and revision by having manufacturers use surgical quality implant materials, adequately test and sterilize their devices, and provide adequate directions for use and patient information.

To receive a guidance via fax machine, telephone CDRH's Facts-on-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt, press 1 to access DSMA Facts; at the second voice prompt, press 2, and then enter the document number (in parentheses in the list above) followed by the pound sign (#). Then follow the remaining voice prompts to compete your request.

Persons interested in obtaining a copy of these guidances may also do so using the Internet. The Center for Devices and Radiological Health (CDRH) maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

IX. FDA's Tentative Findings

FDA believes that the knee joint patellofemorotibial metal/polymer porous-coated uncemented prosthesis and the knee joint femorotibial (uni-compartmental) metal/polymer porous-coated uncemented prosthesis should be reclassified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the devices, and there is sufficient information to establish special controls to provide such assurance.

X. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m.

1. Petition for reclassification of the Patello-Femoro-Tibial Metal/Polymer/Metal Biologically Fixed Prosthesis submitted by the Orthopedic Surgical Manufacturers Association, July 28, 1997.

2. Transcript of the Orthopedic and Rehabilitation Devices Panel Meeting, January 12 and 13, 1998, Vol. II, pp. 1 to 227.

XI. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that these reclassification actions do not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XII. Analysis of Impacts

FDA has examined the impacts of the notice under Executive Order 12866 and the Regulatory Flexibility Act (Public Law 96–354) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that these reclassification actions are consistent

with the regulatory philosophy and principles identified in the Executive Order. In addition, the reclassification actions are not significant regulatory actions as defined by the Executive Order and so are not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Reclassification of the devices from class III to class II will relieve manufacturers of the cost of complying with the premarket approval requirements in section 515 of the act. Because reclassification will reduce regulatory costs with respect to this device, it will impose no significant economic impact on any small entities, and it may permit small potential competitors to enter the marketplace by lowering their costs. The agency therefore certifies that these reclassification actions, if finalized, will not have a significant economic impact on a substantial number of small entities. In addition, this reclassification action will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement of analysis pursuant to section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

XIII. Request for Comments

Interested persons may, on or before June 7, 2000, submit to the Dockets Management Branch (address above) written comments regarding this document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m. Monday through Friday.

Dated: February 14, 2000.

Linda S. Kahan,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 00–5467 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0297]

Guidance for Industry on Formal Dispute Resolution: Appeals Above the Division Level; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Formal Dispute Resolution: Appeals Above the Division Level.'' This guidance is intended to provide guidance for industry on procedures that will be adopted by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) for resolving scientific and procedural disputes that cannot be resolved at the division level.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/guidelines.htm. Submit written requests for single copies of the guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX 888–CBERFAX. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Patricia L. DeSantis, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400, or

Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance entitled ''Formal Dispute Resolution: Appeals Above the Division Level.'' The guidance is intended to provide guidance for industry on procedures that will be adopted by CDER and CBER for resolving scientific and procedural disputes that cannot be resolved at the division level. The guidance describes procedures for formally appealing such disputes to the office or center level and for submitting information to assist agency officials in resolving the issue(s) presented.

In the **Federal Register** of March 19, 1999 (64 FR 13587), FDA announced the availability of a draft guidance for industry entitled ''Formal Dispute Resolution: Appeals Above the Division Level.'' The agency has finalized this guidance after considering comments received on the draft version. Few comments were received, and minor changes were made to the draft version in response to the comments in an effort to make the document more clear.

FDA regulations 21 CFR 10.75 provide a mechanism for any interested person to obtain formal review of any agency decision by raising the matter with the supervisor of the employee who made the decision. If the issue is not resolved at the primary supervisory level, the interested person may request that the matter be reviewed at the next higher supervisory level. This process may continue through the agency's entire supervisory chain of command, through the centers to the Commissioner of Food and Drugs. CDER and CBER regulations for dispute resolution during the investigational new drug process (21 CFR 312.48) and the new drug application/abbreviated new drug application process (21 CFR 314.103) establish similar procedures for the resolution of scientific and procedural matters at the division level and subsequent formal review of decisions through center management.

On November 21, 1997, President Clinton signed into law the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) (Public Law 105–115). Section 404 of the Modernization Act creates new section 562 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360bbb–1). Section 562 of the act provides that if, regarding an obligation concerning drugs or devices under the act or section 351 of the Public Health Service Act (42 U.S.C. 262), there is a scientific dispute between the agency and a sponsor, applicant, or manufacturer and no specific provision of the act or regulation provides a right of review of the matter in controversy, FDA shall, by regulation, establish a procedure under which such sponsor, applicant, or manufacturer may request a review of the controversy, including

review by an advisory committee. Section 562 of the act further provides that such review of the controversy shall take place in a timely manner. In the **Federal Register** of November 18, 1998 (63 FR 63978), FDA amended 21 CFR 10.75 to explicitly state that a sponsor, applicant, or manufacturer of a drug or device may request review of a scientific controversy by an appropriate advisory committee. In the preamble to the final rule, FDA stated that implementation of this provision would be undertaken by the individual FDA centers and would be described in guidance documents.

The Prescription Drug User Fee Act of 1992 (Public Law 102–571) (PDUFA) was reauthorized in November 1997 (PDUFA 2) as part of the Modernization Act. In conjunction with PDUFA 2, FDA agreed to specific performance goals (PDUFA goals) for activities associated with the development and review of products in human drug applications as defined in section 735(1) of the act (21 U.S.C. 379g(1)) (PDUFA products). The PDUFA goals are summarized in ''PDUFA Reauthorization Performance Goals and Procedures,'' an enclosure to a letter dated November 12, 1997, from the Secretary of Health and Human Services, Donna E. Shalala, to Senator James M. Jeffords. The PDUFA goals for major dispute resolution describe specific timeframes for CDER and CBER response to formally appealed decisions regarding scientific or procedural matters concerning PDUFA products.

The policies and procedures described in this guidance document will implement agency regulations, section 562 of the act, and the PDUFA goals for dispute resolution. Unless stated otherwise in the guidance, the document applies to PDUFA products and non-PDUFA products (e.g., generic drugs).

In the notice announcing the availability of the draft version of this guidance, FDA published notice of the proposed collection of information related to the guidance. The **Federal Register** notice also requested comments on the burden estimates for the guidance document. In the **Federal Register** of August 15, 1999 (64 FR 46397), the agency announced that it was submitting the collection of information to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The information collection provisions related to this guidance document have been approved under OMB control number 0910–0430. This approval expires December 31, 2002. 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 Level 1 guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The guidance represents the agency's current thinking on formal dispute resolution in CDER and CBER. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 29, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–5465 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0296]

Guidance for Industry on Formal Meetings With Sponsors and Applicants for PDUFA Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Formal Meetings with Sponsors and Applicants for PDUFA Products.'' This guidance is intended to provide guidance to industry on procedures that will be adopted by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) for formal meetings between the agency and sponsors or applicants concerning certain drug products.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Copies of the guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/guidelines.htm. Submit written requests for single copies of this guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX 888–CBERFAX. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Murray M. Lumpkin, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400, or

Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), 1401 Rockville Pike, Rockville, MD 20852–448, 301–827–0373.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''Formal Meetings with Sponsors and Applicants for PDUFA Products.''This guidance is intended to provide guidance to industry on procedures that will be adopted by CDER and CBER for formal meetings between the agency and sponsors or applicants concerning certain drug products.

In the **Federal Register** of March 19, 1999 (64 FR 13591), FDA announced the availability of a draft version of this guidance. The agency has finalized that draft guidance after considering comments received on the draft version. Few comments were received, and only minor changes were made to the draft version in response to the comments in an effort to make the document clearer.

CDER and CBER participate in many meetings each year with sponsors of investigations and applicants for marketing who seek guidance relating to the development and review (including the initial launch) of products in human drug applications as defined in section 735(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379g(1)) (PDUFA products). These meetings often represent critical points in the regulatory process. It is essential that FDA maintain procedures for the

timely and effective conduct of such meetings.

Section 119(a) of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act) (Public Law 105–115) amends section 505(b) of the act (21 U.S.C. 355(b)) and directs FDA to meet with sponsors and applicants, provided certain conditions are met, for the purpose of reaching agreement on the design and size of clinical trials intended to form the primary basis of an effectiveness claim in a new drug application submitted under section 505(b) of the act or in a biologics license application submitted under section 351 of the Public Health Service Act (21 U.S.C. 355(b)(4)(B)). Moreover, in conjunction with the reauthorization of the Prescription Drug User Fee Act of 1992 (PDUFA) in November 1997, FDA agreed to specific performance goals for the management of meetings with sponsors and applicants for PDUFA products. The performance goals are summarized in an enclosure to a letter dated November 12, 1997, from the Secretary of Health and Human Services, Donna E. Shalala, to Senator James M. Jeffords.

The procedures and policies described in this guidance are designed to promote efficient, well-managed meetings between sponsors, applicants, and CDER or CBER. These procedures will implement section 119(a) of the Modernization Act and are consistent with the timeframes described in the performance goals.

In the notice announcing the availability of the draft version of this guidance (64 FR 13591), FDA published notice of the proposed collection of information related to the draft guidance. The **Federal Register** notice also requested comments on the burden estimates for the guidance. In the **Federal Register** of August 26, 1999 (64 FR 46684), the agency announced that it was submitting the collection of information to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The information collection provisions related to this guidance have been approved under OMB control number 0910–0429. This approval expires December 31, 2002. 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 Level 1 guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The guidance represents the agency's current thinking on formal meetings with sponsors and applicants for PDUFA products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 20, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–5464 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Graduate Medical Education Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of April 2000.

Name: Council on Graduate Medical Education (COGME).

Date and Time: April 5, 2000; 8:30 a.m.—5:30 p.m.; April 6, 2000; 8:30 a.m.—12 p.m.

Place: The Latham Hotel, Georgetown-Presidential Ballroom, 3000 M Street, N.W., Washington, D.C. 20007.

The meeting is open to the public.

Agenda: The agenda will include: Welcome and opening comments from the Administrator, Health Resources and Services Administration, the Associate Administrator for Health Professions, and the Acting Executive Secretary of COGME; a presentation on the Minimum Requirements for Physicians Enrolled in US Post-Graduate Training Programs; a panel of speakers discussing the Role of Labor in Graduate Medical Education; a legislative update on Graduate Medical Education; a presentation on the History of COGME's 110:50/50 Ratio; and a discussion of COGME Resource Papers. The Council will hear the reports of its work groups on GME Financing, and Physician Workforce.

Anyone requiring information regarding the subject should contact Stanford M. Bastacky, D.M.D., M.H.S.A., Executive Secretary, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–6326.

Agenda items are subject to change as priorities dictate.

Dated: February 29, 2000.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–5420 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60) FR 56605 as amended November 6, 1995, as last amended at 65 FR 8375–6 dated February 18, 2000).

This notice reflects the organizational and functional changes in the Bureau of Health Professions (RP).

Make the following changes:

A. Delete the opening functional statement for the Bureau of Health Professions in its entirety and replace with the following:

Bureau of Health Professions (RP)

Provides national leadership in coordinating, evaluating, and supporting the development and utilization of the Nation's health personnel. Specifically: (1) Assess the Nation's health personnel supply and requirements and forecasts supply and requirements for future time periods under a variety of health resources utilization assumptions; (2) collects and analyzes data and disseminates information on the characteristics and capacities of the Nation's health personnel production systems; (3) proposes new or modifications of existing Departmental legislation, policies, and programs related to health personnel development and utilization; (4) develops, tests and demonstrates new and improved approaches to the development and utilization of health personnel within various patterns of health care delivery and financing systems; (5) provides financial support to institutions and individuals for health professions education programs; (6) administers Federal programs for

targeted health personnel development and utilization; (7) provides leadership for promoting equity and diversity in access to health services and health careers for under-represented minority groups; (8) provides technical assistance, consultation, and special financial assistance to national, State, and local agencies, organizations, and institutions for the development, production, utilization, and evaluation of health personnel; (9) provides linkage between Bureau headquarters and HRSA Field Office activities related to health professions education and utilization by providing training, technical assistance, and consultation to Field Office staff; (10) coordinates with the programs of other agencies within the Department, and in other Federal Departments and agencies concerned with health personnel development and health care services; (11) provides liaison and coordinates with non-Federal organizations and agencies concerned with health personnel development and utilization; (12) in coordination with the Office of the Administrator, Health Resources and Services Administration, serves as a focus for technical assistance activities in the international aspects of health personnel development, including the conduct of special international projects relevant to domestic health personnel problems; (13) administers the National Vaccine Injury Compensation Program; and (14) administers the National Practitioner Data Bank Program.

B. Delete the functional statement for the Office of the Bureau Director in its entirety and replace with the following:

Office of the Bureau Director (RP)

The Office of the Director, BHPr, provides national leadership in coordinating, evaluating, and supporting the development and utilization of the Nation's health personnel. Specifically: (1) Directs the national health professions education, student assistance and development programs and activities; (2) provides policy guidance and staff direction to the Bureau; (3) maintains liaison with other Federal and non-Federal organizations and agencies with health personnel development interests and responsibilities; (4) provides guidance and direction for technical assistance activities in the international aspects of health personnel development; (5) provides guidance and assistance to the Field Director or field staff as appropriate; and (6) directs and coordinates Bureau programs in support of Equal Employment Opportunity.

C. Delete the functional statement for the Office of Research and Planning and replace with the following:

Office of Planning and Project Development

Serves as the Bureau focal point for program planning, evaluation, and legislation. Maintains liaison with governmental, professional, voluntary, and other public and private organizations, institutions, and groups for the purpose of providing information exchange. Specifically (1) stimulates, guides, and coordinates program planning, reporting, and evaluation activities of the Divisions and staff offices; (2) provides staff services to the Bureau Director for program and strategic planning and its relation to the budgetary, legislative and regulatory processes, the development of issue papers, congressional reports, and coordination of OMB information clearance requests for forms and regulations; (3) coordinates the development and implementation of the Bureau's evaluation program; (4) provides staff services and coordinates activities pertaining to legislative policy development, interpretation, and implementation, including the development of legislative proposals, the analysis of existing and pending legislation with other agencies, and distribution of legislative materials; (5) reviews and interprets program award policies and authorities for incorporation into the development and implementation of the Bureau's program and award procedures; (6) coordinates the development, clearance, and dissemination of legislative implementation plans, regulations, **Federal Register** notices, application guidelines and operating procedures; (7) identifies issues and coordinates the resolution of program award policy and procedural questions that arise; and (8) coordinates public relations and media communications in conjunction with the Agency and Department.

D. Delete the functional statement for the Division of Associated, Dental and Public Health Professions and replace with the following:

Division of Public Health and Allied Health

The Division of Public Health and Allied Health serves as the principal Federal focus for the development and improvement of basic professional education and continuing professional development of public health, including preventive medicine and school health educators; environmental health, including undergraduate preparation for entry level positions; health administration, including hospitals, ambulatory primary care settings, such as health maintenance organizations, community/migrant health centers, and community based organizations; the associated health professions, including veterinary medicine, optometry, and pharmacy; allied health professions, including physical therapy, occupational therapy, medical technology, dental hygiene, respiratory therapy, radiography, radiation therapy, emergency medical technicians, and a long list of similar professionals; chiropractic health care; social workers, especially in medical settings; clinical psychology; mental health workers; and other new and developing health disciplines. Specifically, the Division: (1) Provides professional direction and leadership for planning, evaluating and supporting the development and utilization of the health professionals in these fields; (2) provides leadership in maintaining contact with the employers of health professionals in these fields to monitor educational relevance to current and future needs in the work place; (3) develops contractual and staff studies concerning the future education needs of the health professions in these fields and supports the development of specialized curricula to encourage progress in basic and continuing professional development; (4) provides leadership to the grant programs administered by the Division to meet the legislated intent of the authorizations; (5) provides professional technical assistance to educational institutions and other potential applicants concerning the grant programs managed by the Division; (6) monitors awarded grants and provides professional technical assistance to assist grantees in the accomplishment of their project objectives within the context of national strategies for the health professionals in these fields; (7) monitors and assists in the credentialing process for the health professionals in these fields, including accreditation, certification by professional organizations, and licensure; (8) maintains liaison with professional associations concerned with the quality of education for the health professionals in these areas; (9) coordinates activities with other Bureau, HRSA, Department, and Federal educational activities for the health professionals in these fields to encourage cooperation and accomplish national health objectives; (10) conducts special initiatives including the development of management information systems; and (11) monitors data collection activities in the Bureau and professional

associations to assure timely and accurate information is available concerning the supply and quality of education of the health professionals in these areas and information is available concerning the grant programs and training activities of the Division.

E. Delete the functional statement for the Division of Medicine and replace with the following:

Division of Medicine and Dentistry

Serves as the principal focus with regard to education, practice, and research of medical personnel; with special emphasis on allopathic and osteopathic physicians, podiatrists, dentists and physician assistants. Specifically: (1) Provides professional expertise in the direction and leadership required by the Bureau for planning, coordinating, evaluating, and supporting development and utilization of the Nation's health personnel for these professions; (2) supports and conducts programs with respect to the need for and the development, use, credentialing, and distribution of such personnel; (3) engages with other Bureau programs in cooperative efforts of research, development, and demonstration on the interrelationships between the members of the health care team, their tasks, education requirements, and training modalities, credentialing and practice; (4) conducts and supports studies and evaluations of physician, dentist, physician assistant, and podiatric personnel requirements, distribution and availability, and cooperates with other components of the Bureau and Agency in such studies; (5) analyzes and interprets physician, dental, physician assistant, and podiatric programmatic data collected from a variety of sources; (6) conducts, supports, or obtains analytical studies to determine the present and future supply and requirements of physicians, dentists, physician assistants, and podiatrists by specialty and geographic location, including the linkages between their training and practice characteristics; (7) conducts and supports studies to determine potential national goals for the training and distribution of physicians in graduate medical education programs and develops alternative strategies to accomplish these goals; (8) supports and conducts programs with respect to activities, associated with the international migration, domestic training, and utilization of foreign medical graduates and U.S. citizens studying abroad; (9) maintains liaison with relevant health professional groups and others, including consumers, having common interest in the Nation's capacity to deliver health services; (10) provides consultation and technical assistance to public and private organizations, agencies, and institutions, including Field Offices, other agencies of the Federal Government, and international agencies and foreign governments, on all aspects of the Division's functions; (11) provides administrative and staff support for the Advisory Committee on Training and Primary Care Medicine and Dentistry, and for the Council on Graduate Medical Education; and (12) represents the Bureau, Agency and Federal Government, as designated, on national committees and as the Accreditation Council on Graduate Medical Education (ACGME) and the Accreditation Council for Continuing Medical Education (ACCME).

F. Delete the functional statement for the Division of Student Assistance in its entirety and replace with the following:

Division of Student Assistance (RP6)

Serves as the focal point for the Health Professions and Nursing Student Loan and Scholarship Programs, the Exceptional Financial Need Scholarship Program, the Federal Assistance to Disadvantaged Health Professions Scholarship Program, the Health Educational Assistance Loan Program, the Health Professions and Nursing Educational Loan Repayment and Loan Cancellation Programs. Specifically: (1) Directs and administers these student assistance, training and support programs, including the awarding of loan and scholarship funds; (2) develops and implements program plans and policies and operating and evaluation plans and procedures in coordination with the Office of Program Development; (3) monitors and assesses educational and financial institutions with respect to capabilities and management of Federal support for students; (4) develops and conducts training activities for staff of educational and financial institutions; (5) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions; (6) maintains liaison with the Office of the General Counsel, and the Office of the Inspector General, DHHS, components of the Department of Education and the Department of Defense, and State agencies concerning student assistance; (7) in coordination with the Office of Program Development, develops legislative proposals and related administrative and management information and control documents; (8) coordinates financial aspects of programs with educational institutions; and (9) develops program data needs, formats, and reporting requirements, including collection, collation, analysis and dissemination of data.

G. Delete the functional statement for the Division of Disadvantage Assistance in its entirety and replace with the following:

Division of Health Professions Diversity

Provides the Bureau focal point and leadership for assuring equity in access to health resources and health careers for diverse and disadvantaged populations. Specifically: (1) Provides technical assistance to groups that represent and seek to improve the health status of diverse and disadvantaged populations, and facilitates the access of such groups to Bureau and other Federal programs and resources; (2) provides leadership and direction for the development and implementation of Bureau objectives as they relate to diverse and disadvantaged populations; (3) develops and recommends health resources and health career opportunities for diverse and disadvantaged populations; (4) initiates, stimulates, supports, coordinates, and evaluates Bureau programs for improving the availability and accessibility of health careers for diverse and disadvantaged populations; (5) initiates, stimulates, supports, coordinates, and evaluates in conjunction with other Bureau units, comprehensive data systems and analyses on requirements, resources, accessibility, and accountability of the health delivery system for diverse and disadvantaged populations; (6) conducts special studies and collects baseline data to identify specific factors contributing to the health and health-related problems of diverse and disadvantaged populations, and to develop strategies for improving health services and career opportunities for diverse and disadvantaged populations; (7) conducts extramural programs, including the use of grants and contracts, specifically designed to promote equity in access to health careers; (8) assures contract compliance and implementation of the Policy Statement on Civil Rights in the Bureau; (9) in coordination with the Bureau's divisions and in collaboration with other HRSA entities, provides leadership for and assures implementation of Presidential, Departmental, and other special initiatives addressing the needs of diverse and disadvantaged populations; (10) conducts and coordinates Bureau programs in health careers for women; (11) provides leadership to develop and coordinate Bureau program support to

student health organizations; and (12) provides advice and consultation on policy and other matters related to assuring equity in access to health resources and health careers for diverse and disadvantaged populations.

H. Delete the functional statement for the Division of Quality Assurance in its entirety and replace with the following:

Division of Quality Assurance (RPA)

Serves as the focal point within DHHS/HRSA for medical, dental, nursing and other health professions quality assurance efforts. Specifically in coordination with the Department and other Federal entities, State licensing boards, and national, State and local professional organizations: (1) administers the National Practitioner Data Bank (NPDB) as authorized under Title IV of the Health Care Quality Improvement Act of 1986 and Section 5 of the Medicare and Medicaid Patient and Program Protection Act of 1987; (2) on behalf of the Inspector General, DHHS, administers the Healthcare Integrity and Protection Data Bank (HIPDB) under Title II Subsection C of the Health Insurance Portability and Accountability Act of 1996; (3) conducts and supports research based on NPDB and HIPDB information; (4) maintains active consultative relations with professional organizations, societies, and Federal and state agencies involved in the NPDB and HIPDB; (5) proposes and monitors guidelines for (a) credentials assessment, granting of privileges, and monitoring and evaluating programs for physicians, dentists, and other health care professionals; (b) professional review of specified medical liability and malpractice; (7) works with the Secretary's office to provide technical assistance to States undertaking malpractice reform; (8) provides staff to and coordinates the activities of the PHS interagency Advisory Council on Quality Assurance and Risk Management; and (9) undertakes other quality assurance and risk management development efforts.

I. Establish the Division of Interdisciplinary and Community Based Programs (RPA)

Division of Interdisciplinary and Community Based Programs

Serves as the principal focal point for specialized DHHS interagency projects, HRSA initiatives and Bureau of Health Professions interdivisional activities. Specifically: (1) promotes, designs, supports and administers activities relating to the planning and development of nationally integrated health professions education programs; (2) administers special projects of the Office of the Secretary, such as the primary Care Policy Fellowship Program and the Secretary's Award Program for Innovations in Health Promotion and Disease Prevention; (3) promotes, plans and develops collaborative, interdisciplinary activities in the specialty areas of behavioral/mental health, rural health and geriatrics; (4) promotes quality improvement in health professions education through collaboration and partnerships with national and international institutes and centers for quality improvement; (5) promotes and supports academic-community partnerships whose goal is the development of interdisciplinary, community-based programs designed to improve access to health care through improving the quality of health professions education and training; (6) collaborates with relevant offices of the Bureau, HRSA and the Department; and (7) maintains liaison with related professional groups, foundations, and other private and government organizations as needed.

Delegations of Authority

All delegations and redelegations of authority which were in effect immediately prior to the effective date herof have been continued in effect in them or their successors pending further redelegation.

This reorganization is effective upon date of signature.

Dated: February 18, 2000.

Claude Earl Fox,

Administrator.

[FR Doc. 00–5470 Filed 3–6–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Colorado River Irrigation Project—Irrigation Division, Arizona, Irrigation Rate Adjustment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final Notice of Rate Adjustment.

SUMMARY: The Bureau of Indian Affairs (BIA) is adjusting irrigation rates for customers of Colorado River Irrigation Project, Irrigation Division for the 2000 irrigation season. The Notice of Proposed Rate Adjustment was published in the **Federal Register** on July 26, 1999, 64 FR 40387. The public and interested parties were provided an opportunity to submit written comments during the 60-day period subsequent to July 26, 1999. No comments were received.

EFFECTIVE DATE: The new rates are effective for the 2000 irrigation season.

FOR FURTHER INFORMATION CONTACT: Regional Director, Bureau of Indian Affairs, Western Region, P.O. Box 10, Phoenix, Arizona 85001, Telephone (602) 379–6956.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary-Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8.1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices. The new rates are specified in the following schedule.

Irrigation Rate Per Assessable Acre—2000 Irrigation Season

1. When does this schedule apply to me?

This schedule applies to you if you irrigate lands within the CRIP/ID for the 2000 irrigation season.

2. What will BIA charge for the 2000 irrigation season?

The following table shows how we will bill you.

For . . .	We will bill you . . .
(1) Zero to 5 acre-feet/acre.	$38.50 per assessable acre.
(2) Excess Water above 5 acre-feet.	$17.00 per acre foot.

Executive Order 12988

The Department has certified to the Office of Management and Budget (OMB) that this rate adjustment meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 12866

This rate adjustment is not a significant regulatory action and has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This rate making is not a rule for the purposes of the Regulatory Flexibility Act because it is ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

Executive Order 12630

The Department has determined that this rate adjustment does not have significant ''takings'' implications.

Executive Order 12612

The Department has determined that this rate adjustment does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of states.

NEPA Compliance

The Department has determined that this rate adjustment does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act of 1995

This rate adjustment does not contain collections of information requiring approval under the Paperwork Reduction Act of 1995.

Unfunded Mandates Act of 1995

This rate adjustment imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Dated: February 28, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–5424 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

San Carlos Irrigation Project—Power Division, Arizona, Power Rate Adjustment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final Notice of Rate Adjustment.

SUMMARY: The Bureau of Indian Affairs (BIA) is adjusting the electric power rates for customers of San Carlos Irrigation Project, Power Division (SCIP/PD) that are subject to Rate Schedule No. 2-General Rate. The Notice of Proposed Rate Adjustment was published in the **Federal Register** on May 4, 1999, 64 FR 23853. The public and interested parties were provided an opportunity to submit written comments during the 30-day period subsequent to May 4, 1999. No comments were received.

EFFECTIVE DATE: The new rates will become effective on March 7, 2000.

FOR FURTHER INFORMATION CONTACT: Regional Director, Bureau of Indian Affairs, Western Region, P.O. Box 10, Phoenix, Arizona 85001, Telephone (602) 379–6600.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 7, 1946, c. 802, Section 3 (60 Stat. 895; 25 U.S.C. 385c). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8.1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices. The new rates are specified in the following schedule.

Rate Schedule No. 2—General Rate

1. *When does this schedule apply to me?*

This schedule applies to you if you:

(a) Receive single and three phase electric service;

(b) Are not a residential user; and

(c) Are not a small non-commercial user.

2. *Are there restrictions on my use of power?*

(a) You must use any power that we supply you only on your property.

(b) You may not resell any power that we supply to you.

3. *How does BIA bill me if I have more than one meter?*

If you have more than one meter, we will calculate a separate bill for each meter.

4. *What monthly rates will BIA charge?*

(a) The following table shows how we will bill you for the power that you use.

For . . .	We will bill you. . .
(1) Any usage up to 50 kilowatt-hours	$ 12.00
(2) Each kilowatt-hour between 50 and 350	0.15
(3) Each kilowatt-hour between 351 and 600	0.09
(4) Each kilowatt-hour between 601 and 9,000	0.06
(5) Each kilowatt-hour over 9,000	0.0460

(b) We will add a purchased power adjustment to the rates described in paragraph (a). This adjustment will be the amount (rounded to the nearest $0.0001) that the project pays to its power suppliers.

(c) In every month where your usage is over 200 times your billing demand, we will apply a credit to all of your usage over 9,050 kilowatt-hours. The credit will be $0.007 per kilowatt-hour.

5. *What will my minimum monthly bill be?*

(a) In all cases, your minimum monthly bill will be at least the greater of:

(1) $12.00, or

(2) $2.14 per kilowatt of billing demand.

(b) If you use power on a recurring seasonal basis, we will calculate the maximum amount of your minimum monthly bill as follows:

(1) We will multiply by 12 your highest monthly minimum computed bill over the preceding 12 months;

(2) We will add up all of your bills for the preceding 12 months;

(3) We will subtract the result of (b)(2) from (b)(1); and

(4) Your minimum monthly bill will be equal to the result we obtain in (b)(3).

6. *What terms do I need to know?*

(a) ''Contract demand'' means the number of kilowatts that a customer expects to use. Each contract for 15 kilowatts or more must state the contract demand.

(b) ''Actual demand'' means one of the following:

(1) The average amount of power used during the 15 consecutive minutes when that average is the greatest for the month, as determined by a suitable meter(s); or

(2) If no suitable meter is available, the connected load or the part of the connected load that we determine appropriate based on use of connected lights, appliances, and equipment.

(c) ''Billing demand'' means the contract demand or the actual demand, whichever is greater, for a given month.

7. *Are any of the other power rates affected?*

No other power rates for the project are affected at this time.

Executive Order 12988: The Department has certified to the Office of Management and Budget (OMB) that this rate adjustment meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 12866: This rate adjustment is not a significant regulatory action and has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act: This rate making is not a rule for the purposes of the Regulatory Flexibility Act because it is ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

Executive Order 12630: The Department has determined that this rate adjustment does not have significant ''takings'' implications.

Executive Order 12612: The Department has determined that this rate adjustment does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of states.

NEPA Compliance: The Department has determined that this rate adjustment does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act of 1995: This rate adjustment does not contain collections of information requiring approval under the Paperwork Reduction Act of 1995.

Unfunded Mandates Act of 1995: This rate adjustment imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Dated: February 28, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–5425 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Request for Projects Using the $18.3 Million Fiscal Year 2000 Indian Reservation Roads Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Request for applications and scope of work.

SUMMARY: The Department of Transportation Appropriations Act for FY 2000 provided an additional $18.3 million for the Indian Reservation Roads (IRR) Program. Based on input from the Transportation Equity Act for the 21st Century (TEA–21) Negotiated Rulemaking Committee, we are requesting applications and scopes of work for IRR projects for the distribution of these additional funds. We will distribute the funds to federally-recognized Indian Tribes and Alaskan Native Villages based on a timely receipt of applications and scopes of work who have not completed adequate transportation planning within the last 5 years or that have deficient IRR bridges.

DATES: Applications and scopes of work supporting request for funding for projects must be postmarked by April 6, 2000.

ADDRESSES: You may submit applications including the scope of work to: LeRoy Gishi, Chief, Division of Transportation, Office of Trust Responsibilities, Bureau of Indian Affairs, 1849 C Street, NW, MS–4058–MIB, Washington, DC 20240. Mr. Gishi may also be reached at 202–208–4359 (phone), 202–208–4696 (fax), or leroygishi@bia.gov (electronic mail).

FOR FURTHER INFORMATION CONTACT: LeRoy Gishi, 202–208–4359.

SUPPLEMENTARY INFORMATION:

Background

The Department of Transportation Appropriations Act for FY 2000, Public Law 106–96, provided $18.3 million for the IRR program. These IRR program funds are in addition to those provided in the Transportation Equity Act for the 21st Century (TEA–21) and are only provided for this fiscal year.

There is an immediate and critical need to use these additional funds in support of transportation planning and infrastructure for Indian Tribes and Alaskan Native Villages. IRR are typically among the most poorly maintained roads in the nation, in great need of development and repair. This creates great difficulty in meeting everyday needs, such as getting students to school and access to medical and emergency treatment, as well as economic and community development.

In consultation with the TEA–21 Negotiated Rulemaking Committee, we have developed the procedures for distribution of these IRR funds this fiscal year.

What Comments on Funds Distribution Did You Receive?

In a January 26, 2000 letter from the Tribal Co-Chairs of the TEA–21 Negotiated Rulemaking Committee, we received comments on consensus reached by 25 tribal delegates and alternates. This letter delineated, from a tribal perspective, how the $18.3 million should be distributed to Indian Tribes and Alaskan Native Villages in support of the IRR program.

What Is the Purpose of This Action?

The purpose of this action is to prescribe the policies and procedures for making applications and distributing these additional IRR program funds for FY 2000.

What Is the IRR Program?

The IRR program is jointly administered by the Bureau of Indian Affairs (BIA) and the Federal Lands Highway (FLH) of the Federal Highway Administration (FHWA). The IRR program governs the planning, design, construction and general administrative responsibility for IRR. The duties of each agency under the IRR program are set forth in a Memorandum of Agreement and the IRR Program Stewardship Plan between the two agencies. In general, BIA works with Indian tribal governments and tribal organizations to develop Transportation Improvement Programs which are submitted to FLH for review and approval. Each fiscal year FLH determines the amount of funds available for the IRR program. Then, FLH and BIA develop an IRR program funding plan for the fiscal year. Funds are allocated from FLH to BIA and distributed by the Secretary of the Interior (Secretary) for IRR projects on or near Indian reservations.

What Are the Additional FY 2000 IRR Funds?

These additional IRR program funds are provided as part of the Department of Transportation and Related Agencies Appropriations Act for FY 2000, Public Law 106–69. These funds are not part of other funding as authorized in 23 U.S.C. 204 or as distributed under 25 CFR 170.4b (65 FR 7431, Feb. 15, 2000).

How Long Will These Funds Be Available?

These funds are available for this fiscal year only. Any unobligated funds will expire at the end of the fiscal year.

What Are the Restrictions on These Funds?

The Secretary is asking for proposals from all federally-recognized Indian Tribes and Alaska Native Villages for transportation planning and bridge design projects. Priority consideration will be given to those Indian Tribes and Alaska Native Villages which have not completed an adequate transportation plan within the last 5 years or that have deficient IRR bridges.

Who May Apply for the Additional FY 2000 IRR Funds?

You may apply for the additional FY 2000 IRR funds if you meet any of the following criteria:

(1) You are a federally-recognized Indian Tribe or Alaska Native Village;

(2) You have not developed an adequate transportation plan in the last 5 years;

(3) You have a deficient IRR bridge which needs to be designed for either rehabilitation or replacement; or

(4) You are a BIA Regional office that has a direct service tribe within your region that meets the criteria in (1), (2) or (3) above.

What Is Transportation Planning?

Transportation planning is the development of strategies for the design, construction, operation, and maintenance of transportation facilities for moving people and goods in a village, town, pueblo, rancheria, city, borough, county, township, parish, metropolitan area, Indian reservation, State, multi-State region, or country. The transportation planning process is a continuing and comprehensive analysis to the degree appropriate and is based on the complexity of the transportation needs. Transportation planning considers both the physical and financial needs to develop an adequate transportation system, the identification and inventory of the existing and proposed transportation system, and the identification of the transportation system's owners and users.

How Do I Determine if I Have Not Had Adequate Transportation Planning in the Last 5 Years?

Your transportation planning has been inadequate if you have not developed an approved tribal Transportation Improvement Program (TIP) which is a multi-year list of IRR transportation projects, or your TIP is obsolete and does not reflect your current transportation project needs.

What Are the Criteria for Bridge Eligibility?

To be eligible to receive funding, a bridge must:

(1) have an opening of 20 feet or more;

(2) be on an IRR road;

(3) be unsafe because of structural deficiencies, physical deterioration or functional obsolescence; and

(4) be recorded in the National Bridge Inventory (NBI) maintained by the FHWA.

Bridges that were constructed, rehabilitated or replaced in the last 10 years are eligible for seismic retrofit or installation of scour countermeasures.

How Do I Apply for the Additional FY 2000 IRR Funds?

Applicants must submit all of the following to be considered for these funds:

(1) A letter of application.

(2) A scope of work for the transportation planning activity in accordance with the current IRR Transportation Planning Procedures and Guidelines. The complete document can be found on the World Wide Web (www.fhwa.dot.gov/flh/reports/indian/intro.htm).

(3) A scope of work for the engineering design of the eligible deficient bridge (a list of the eligible deficient bridges is available at the BIA Regional office). If more than one deficient IRR bridge exists, the scope of work for more than one bridge will be considered.

What Are the Funding Limits for Either Transportation Planning or Bridge Design Activity?

The cost associated with transportation planning or bridge design activity cannot exceed $50,000 per project per tribe.

When Must Applications Be Submitted?

Each eligible applicant must submit an application and scope of work to the address in the **ADDRESSES** section in this notice by April 6, 2000 identifying each transportation planning or bridge design activity to be completed and its cost.

What Will Happen to Funds Not Distributed as Part of the Application Process and Requests for Funds Above?

The Secretary will distribute the remaining funds not distributed or not obligated as described above in the same manner as the FY2000 IRR funding, by the Relative Need Formula, as described at 65 FR 7431 (Feb. 15, 2000).

Dated: March 1, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–5405 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–00–1310 PB 24 1A]

Extension of Currently Approved Information Collection; OMB Approval No. 1004–0074

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: The Paperwork Reduction Act requires federal agencies to announce their intention to request extension of approval for collecting information from individuals. The Bureau of Land Management (BLM) announces its intention to request extension of approval for collecting certain information that will be used to determine the highest qualified bonus bid submitted for competitive oil and gas or geothermal lease (Form 3000–2) and enable the BLM to complete environmental reviews in compliance with the National Environmental Policy Act of 1969 (Form 3200–9). The information supplied allows BLM to determine whether a bidder is qualified to hold a lease and to conduct geothermal resource operations under the terms of the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1969.

DATES: Comments on the proposed information collection must be received by May 8, 2000.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (WO–630), Bureau of Land Management, 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240. Comments may be sent via the Internet to: *WOComment@blm.gov.* Please include ''Attn.: 1004–0074'' and your name and address in your Internet address.

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluid Minerals Group, (202) 452–0338.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.8(d), BLM is required to provide a 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules and other collection instruments to solicit comments on: (a) Whether the proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the 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 these of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*), gives the Secretary of the Interior responsibility for oil and gas leasing on approximately 600 million acres of public lands and national forests, and private lands where mineral rights have been retained by the federal government. The Federal Onshore Oil and Gas Leasing Reform Act of 1987 was passed by Congress to require that all public lands that are available for oil and gas leasing be first offered by competitive oral bidding. The Department of the Interior Appropriations Act of 1981 (43 U.S.C. 6508) provides for the competitive leasing of the lands in the National Petroleum Reserve-Alaska. The Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025) authorizes the Secretary of the Interior to issue leases

for geothermal development. The lands available for exploration and leasing include public, withdrawn, reserved and acquired lands administered by the BLM.

The regulations within 43 Group 3100 outline procedures for obtaining a lease to explore for, develop, and produce oil and gas resources located on federal lands. The regulations within 43 CFR Group 3200 provide for issuing geothermal leases and the exploration, development and utilization of federally owned geothermal resources. BLM needs the information requested on the two forms to process bids for oil and gas and geothermal lands and to complete environmental reviews required by NEPA.

For Form 3000–2, ''Competitive Oil and Gas or Geothermal Resources Lease Bid,'' the information will be used to determine the highest qualified bonus bid submitted for a competitive oil and gas or geothermal resources parcel. For Form 3200–9, ''Notice of Intent to Conduct Geothermal Resources Exploration Operations,'' the information will be used to enable the BLM to complete environmental reviews in compliance with NEPA. BLM needs the information requested to determine the eligibility of an applicant to hold, explore for, develop and produce oil and gas and geothermal resources on federal lands.

The forms are submitted in person or by mail to the proper BLM office. On Form 3000–2, the name and address of the bidder is needed to identify the bidder and to allow the authorized officer to ensure that the bidder meets the requirements of the regulations. The total bid and payment submitted with the bid is necessary to determine the specific bid and that the bid is accompanied by one-fifth of the amount of the bid, as required by the regulations for a geothermal bid, or the minimum acceptable bid, first year's rental, and administrative fee, as required by the regulations for an oil and gas bid.

On Form 3200–9, names and addresses are needed to identify entities who will be conducting operations on the land. The land description is necessary to determine the area to be entered or disturbed by the proposed exploration operation. Dates of commencement and completion are used to determine how long the applicant/operator/contractor intends to conduct operations on the land.

BLM developed the forms in 1990 and 1996, respectively, and the information required from the public remains the same.

Based on its experience in conducting oil and gas and geothermal lease sales and administering geothermal exploration operations, BLM estimates that the public reporting burden is 2 hours for completing the Competitive Oil and Gas or Geothermal Resources Lease Bid (Form 3000–2) and 2 hours for completing the Notice of Intent to Conduct Geothermal Resources Exploration Operations (Form 3200–9). The bidder/lessee/operator/contractor has access to records, plats, and maps necessary for providing land descriptions. These estimates include the time spent on research, gathering and assembling information, reviewing instructions, and completing and reviewing the respective forms.

BLM estimates that approximately 393 lease bids and 50 notices of intent will be filed annually, with a total annual burden of 886 reporting hours. Respondents vary from individuals and small businesses to large corporations.

Any interested member of the public may request and obtain, without charge, a copy of Form 3000–2 or 3200–9 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 2, 2000.

Carole J. Smith,

Information Clearance Officer.

[FR Doc. 00–5481 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Notice of Extension for the Spruce Creek Access Proposal, Final Environmental Impact Statement

SUMMARY: The National Park Service (NPS) is preparing a final environmental impact statement (EIS) to evaluate an application for access to a private inholding on Spruce Creek in the Kantishna Hills of Denali National Park and Preserve. The Notice of Intent to prepare the EIS was published Thursday, March 19, 1998 (**Federal Register**/Vol. 63, No. 53). The owners of the inholding submitted an application for the right-of-way pursuant to the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), title XI, Section 1110(b) and the implementing regulations at 43 CFR Part 36. The application states that the right-of-way would provide access in the form of a road and airstrip for the owners to construct and operate a remote backcountry lodge. On January 7, 1998, the NPS accepted an application for access to a 20-acre parcel on Spruce Creek. The applicants amended the request for access on January 26, 1998, to request a revised location of an airstrip.

The NPS provided notice on Tuesday, October 6, 1998 (**Federal Register**/Vol. 63, No. 193) and Monday, February 8, 1999 (**Federal Register**/Vol. 64, No. 25) stating additional time was needed to complete the draft EIS because the applicants continued to modify and clarify the project proposal. The NPS needed additional time to analyze those modifications and clarifications and extended the dates of publication and distribution of the draft EIS until July 1999. Notices of Availability of the draft EIS were published on August 2 and August 6, 1999 (**Federal Register**/Vol. 64, No. 147, and Vol. 54, No. 151.) The public comment period ended October 6, 1999. Due to extensive agency and public comment on the draft EIS and the need to conduct an economic feasibility study of the access alternatives, the NPS is giving notice to extend the time period to complete the final EIS beyond the time specified in 43 CFR 36.6.

DATES: The final EIS will be available on or about May 26, 2000.

FOR FURTHER INFORMATION CONTACT: Stephen P. Martin, Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali Park, Alaska 99755. Telephone (907) 683–2294.

Judith C. Gottlieb,

Acting Regional Director.

[FR Doc. 00–5430 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–70–M

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 February 26, 2000. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written

comments should be submitted by March 22, 2000.

Patrick W. Andrus,

Acting Keeper of the National Register.

ALASKA

North Slope Borough-Census Area

Prudhoe Bay Oil Field Discovery Well Site, 200 mi. SE of Barrow, Barrow, 00000264

FLORIDA

Highlands County

Pinecrest Hotel, Old, 1609 S. Lake Lotela Dr., Avon Park, 00000266

Polk County

Lake of the Hills Community Club,

41 E. Starr Ave., Lake Wales, 00000265

HAWAII

Honolulu County

Cooke, Charles Montague, Jr. House and Kuka'O'O Heiau (Boundary Increase), Address Restricted, Honolulu, 00000267

KANSAS

Lincoln County

Cummins Block Building, 161 East Lincoln, Lincoln, 00000268

KENTUCKY

Boone County

Bedinger Site, Address Restricted, Walton, 00000276

Big Bone Lick Archeological District, Along Big Bone Creek, Union, 00000284

Maplewood, Address Restricted, Walton, 00000275

Bourbon County

Hillside Farm, 1165 N. Middletown Rd., Paris, 00000277

Carroll County

Richlawn Farm, 1705 Highland Ave., Carrollton, 00000274

Estill County

Ravenna Motor Vehicle Service Building, (Kentucky's National Guard Facilities MPS) 512 Main St., Ravenna, 00000278

Jefferson County

Fincastle, (Louisville and Jefferson County MPS) 7501 Wolf Pen Branch Rd., Prospect, 00000272

Russell Historic District (Boundary Increase), Jct. of Muhammad Ali Blvd. and S. 17th St., Louisville, 00000273

Logan County

Russellville Armory, (Kentucky's National Guard Facilities MPS) 190 S. Winter St., Russellville, 00000279

Madison County

Richmond Armory, (Kentucky's National Guard Facilities MPS) Jct. of 2nd St. and Moberly Ave., Richmond, 00000282

Marion County

Lebanon Junior High School and Lebanon High School, Jct. of N. Spalding and Hood Aves., Lebanon, 00000270

Mercer County

Harrodsburg Armory, (Kentucky's National Guard Facilities MPS) 130 N. College St., Harrodsburg, 00000281

Metcalfe County

Metcalfe County Kentucky Courthouse, Public Square, Edmonton, 00000271

Nelson County

McClaskey, Newell B., House, 1795 KY 1066, Bloomfield, 00000269

Nicholas County

Carlisle Armory, (Kentucky's National Guard Facilities MPS) 378 Main St., Carlisle, 00000280

Washington County

Springfield Armory, (Kentucky's National Guard Facilities MPS) 126 Armory Hill Rd., Springfield, 00000283

MARYLAND

Calvert County

Linden, 70 Church St., Prince Frederick, 00000285

MICHIGAN

Marquette County

Gwinn Model Town Historic District, Including most of the original plat of Gwinn and surrounding greenbelt, Forsyth, 00000286

NORTH CAROLINA

Pitt County

Kittrell—Dail House, Jct. of NC 1117 amd NC 1114, Renston, 00000287

OREGON

Jackson County

Rich Gulch Diggings, 0.75 mi SW of Jacksonville, Jacksonville, 00000288

SOUTH CAROLINA

Clarendon County

Senn's Grist Mill—Blacksmith Shop—Orange Crush Bottling Plant, 3 Cantey St., Summerton, 00000290

Oconee County

Ram Cat Alley Historic District, Ram Cat Alley and North Townville St., Seneca, 00000289

TEXAS

Harris County

City National Bank Building, 1001 McKinney Ave., Houston, 00000291

WEST VIRGINIA

Boone County

Town of Nellis, Off Cty Rte. 1, Nellis, 00000292

A request for REMOVAL has been made for the following resource:

MINNESOTA

Becker County

St. Benedict's Mission School Co. Hwy. 133 Ogema, 82002931

[FR Doc. 00–5432 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Oil and Gas Management Plan, Final Environmental Impact Statement, Padre Island National Seashore, Texas

ACTION: Availability of Final Environmental Impact Statement and Oil and Gas Management Plan for Padre Island National Seashore, Kenedy, Kleberg and Willacy Counties, Texas.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, and the regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service, announces the availability of a Final Environmental Impact Statement and Oil and Gas Management Plan (FEIS/O&GMP) for Padre Island National Seashore, Texas.

DATES: A 30-day no-action period will follow the U.S. Environmental Protection Agency's notice of availability of the FEIS/O&GMP.

ADDRESSES: Public reading copies of the FEIS/O&GMP will be available for review at the following locations:

Office of the Superintendent, Padre Island National Seashore, 20301 Park Road 22, Corpus Christi, Texas 78418, Telephone: (361) 949–8173

Minerals/Oil and Gas Program Office, Intermountain Support Office-Santa Fe, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico 87501, Telephone: (505) 988–6095

Planning and Environmental Quality Program Office, Intermountain Support Office-Denver, National Park Service, 12795 W. Alameda Parkway, Lakewood, Colorado 80228, Telephone: (303) 969–2851

Office of Public Affairs, National Park Service, 18th and C Streets, NW, Washington, D.C. 20240, Telephone: (202) 208–6843

SUPPLEMENTARY INFORMATION: The FEIS/O&GMP analyzes three (3) alternatives to manage oil and gas operations in a manner that provides for hydrocarbon development, while protecting natural and cultural resources, visitor use values, and human health and safety. The plan will serve as a guide over the next 15–20 years for directing access for

geophysical exploration, exploratory drilling, production, and transportation of nonfederal oil and gas resources in the park. It will also provide a greater degree of certainty to operators, since it provides up-front information on the location of Sensitive Resource Areas and suggests needed mitigation. Current legal and policy requirements would be a basis component of any alternative selected. Current legal and policy requirements means the application of all pertinent federal and state laws, regulations, policies, and direction governing oil and gas operations conducted in the park. These include NPS regulations at 36 CFR 9B, which require operators to use technology and methods least damaging to park resources while ensuring the protection of human health and safety.

Alternative A, Proposed Action, is the agency's Preferred Alternative. Under Alternative A, Sensitive Resource Areas (SRAs) would be formally designated comprising 68,731 acres or 53 percent of the park, in which no surface occupancy or specific restricted access for oil and gas operations would be applied. SRAs are areas that are particularly sensitive to adverse impacts from oil and gas activities. Generally, geophysical (seismic) exploration could be allowed in SRAs under current legal and policy requirements. In all other areas of the park, oil and gas activities would be permitted under current legal and policy requirements. Alternative B, No Action/Current Management, describes the current management strategy, and provides a baseline to compare Alternatives A and C. Under Alternative B, nonfederal oil and gas operations could be permitted in all areas (100 percent) of the park by applying current legal and policy requirements. Under Alternative B, areas that are particularly susceptible to adverse impacts from oil and gas operations would be identified on a case-by-case basis during development and review of plans of operations, during which mitigation measures would be implemented as needed. Under Alternative C, Sensitive Resource Areas would be formally designated (similar to Alternative A), comprising 68,731 acres or 53 percent of the park, and maximum resource protection would be provided these areas by applying a ''no surface access'' stipulation within all SRAs. In all other areas of the park, oil and gas activities would be permitted by applying current legal and policy requirements. Under both Alternatives A and C, where surface access is restricted in SRAs, directional drilling technology to reach a bottomhole target underneath an SRA from a surface location outside an SRA, or to place a pipeline under an SRA to avoid surface impacts, would also be permitted.

The FEIS/O&GMP evaluates the environmental consequences of the proposed action and the other alternatives on oil and gas exploration and development, air quality, soils and water resources, floodplains, vegetation, wetlands, fish and wildlife, threatened and endangered species, cultural resources, and visitor experience.

FOR FURTHER INFORMATION CONTACT: Superintendent, Padre Island National Seashore, at the above address and telephone number.

Dated: February 28, 2000.

John A. King,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. 00–5431 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Upper Rio Grande Basin Water Operations Review

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) for upper Rio Grande basin water operations.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) with and on behalf of other joint-lead agencies [U.S. Army Corps of Engineers (Corps), Department of Defense; and the New Mexico Interstate Stream Commission (Commission), State of New Mexico] intends to prepare an EIS on water operations in the Rio Grande Basin above Fort Quitman, Texas. The preparation of the EIS will be integral to the Upper Rio Grande Basin Water Operations Review (Review). It is anticipated that a plan for water operations at existing Reclamation and Corps facilities will be developed.

DATES: Public scoping meetings will be scheduled at locations throughout the upper Rio Grande basin between June 1 and September 30, 2000. Specific information regarding location and times of these meetings will be published in the **Federal Register** at least 15 days in advance of the meetings.

The estimated date that the EIS will be completed and released for public review is February 2004.

ADDRESSES: Questions or comments regarding the Review and EIS may be directed to Mr. Chris Gorbach, Bureau of Reclamation, 505 Marquette, NW, Albuquerque, NM 87102–2162. Email: cgorbach@uc.usbr.gov.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Gorbach, Bureau of Reclamation, telephone (505) 248–5379. Email: cgorbach@uc.usbr.gov.

SUPPLEMENTARY INFORMATION: Under various existing legal authorities, and subject to allocation of supplies and priority of water rights under State law, Reclamation and the Corps operate dams, reservoirs, and other facilities in the upper Rio Grande basin to:

(1) Store and deliver water for agricultural, domestic, municipal, industrial, and environmental uses;

(2) Assist the Commission in meeting downstream water delivery obligations mandated by the Rio Grande Compact;

(3) Provide flood protection and sediment control; and

(4) Comply with existing law, contract obligations, and international treaty.

The Review will be the basis of, and integral to, preparation of the EIS. The purpose of the Review and EIS is to:

(1) Identify flexibilities in operation of Federal reservoirs and facilities in the upper Rio Grande basin that are within existing authorities of Reclamation, the Corps, and the Commission, and in compliance with State and Federal law;

(2) Develop a better understanding of how these facilities could be operated more efficiently and effectively as an integrated system;

(3) Formulate a plan for future water operations at these facilities that is within the existing authorities of Reclamation, the Corps, and the Commission; complies with State, Federal, and other applicable laws and regulations; and assures continued safe dam operations;

(4) Improve processes for making decisions about water operations through better interagency communications and coordination, and facilitation of public review and input; and

(5) Support compliance of the Corps, Reclamation, and the Commission with applicable law and regulations, including, but not limited to, the National Environmental Policy Act and the Endangered Species Act.

The EIS will address water operations at the following facilities with the noted exceptions and limitations.

- Flood control operations at Platoro Reservoir (the Review and EIS will include only flood control operations at Platoro that are under Corps authority. Water supply operations at Platoro are under local control.)
- Closed Basin Division—San Luis Valley Project.
- Heron Dam and Reservoir.
- Abiquiu Dam and Reservoir.
- Cochiti Dam and Reservoir.
- Jemez Canyon Dam and Reservoir.
- Low Flow Conveyance Channel.
- Flood control operations at Elephant Butte Dam and Reservoir (because of current litigation, water supply operations at Elephant Butte will not be included in the Review or EIS).
- Flood control operations at Caballo Dam and Reservoir (because of current litigation, water supply operations at Caballo will not be included in the Review or EIS).

The EIS will present alternatives for exercise of discretionary authority of Reclamation, the Corps, and the Commission with respect to water operations at these facilities and evaluate the environmental, economic, and social effects of these alternatives. Some of the issues to be considered include changing channel capacity criteria at Albuquerque, maintenance or non-maintenance of a sediment pool at Jemez Canyon Dam, storage or non-storage of Rio Grande water in authorized San Juan-Chama space in Abiquiu Reservoir, and operation of the low flow conveyance channel.

Coordination is ongoing with both public and private entities having jurisdiction or an interest in water operations in the upper Rio Grande basin. Fact sheets and briefings were presented at several public forums prior to this Notice. In July 1999 pueblos and tribes, State, Federal, and local agencies were invited to participate in the Review and preparation of the EIS. The Corps, Reclamation, and the Commission, as lead agencies, signed in January 2000 a Memorandum of Agreement to define the scope of the Review and EIS and to establish their roles and responsibilities relating to completing the Review and EIS in accordance with NEPA, the Endangered Species Act, and other laws and regulations. To date, the Pueblo of San Juan, Middle Rio Grande Conservancy District, New Mexico Department of Game and Fish, Colorado State Engineer (as Rio Grande Compact Commissioner), New Mexico Environment Department, and New Mexico Department of Agriculture have responded in writing that they will participate as cooperating agencies. Many others have indicated their interest in participating through the public involvement process or by participating on technical analysis teams. The joint lead agencies will seek and encourage public involvement throughout the project. The responsibilities of Reclamation, the Corps, and Commission include conducting public scoping meetings throughout the basin, EIS comment hearings, and other outreach activities.

The environmental evaluation will assess the potential effects that the proposed water operations alternatives may have on Indian Trust Assets, and minority and low income populations.

Dated: February 22, 2000.

Charles A. Calhoun,

Regional Director, Upper Colorado Region.

[FR Doc. 00–5458 Filed 3–6–00; 8:45 am]

BILLING CODE 4310–94–U

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Report Form Under OMB Review

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a notice in the **Federal Register** notifying the public that the Agency has prepared an information collection request for OMB review and approval and has requested public review and comment on the submission. OPIC published its first **Federal Register** notice on this information collection request on December 28, 1999, in 64 FR 72677, at which time a 60-calendar day comment period was announced. The comment period ended February 29, 2000. No comments were received in response to this notice.

The information collection submission has now been submitted to OMB for review. Comments are again being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received on or before April 6, 2000.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer

Carol Brock, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, N.W., Washington, D.C. 20527; 202/336–8563.

OMB Reviewer

David Rostker, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10102, 725 17th St., N.W., Washington, D.C. 20503, 202/395–3897.

Summary of Form Under Review

Type of Request: Extension of currently approved form.

Title: Application for Political Risk Investment Insurance.

Form Number: OPIC–52.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institutions (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 6 hours per project.

Number of Responses: 160 per year.

Federal Cost: $3,200 per year.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: March 1, 2000.

Ralph A. Kaiser,

Senior Counsel for Administration, Department of Legal Affairs.

[FR Doc. 00–5438 Filed 3–6–00; 8:45 am]

BILLING CODE 3210–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before April 21, 2000. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too, includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Animal and Plant Health Inspection Service (N1–463–98–3, 3 items, 3 temporary items). Applications and related records pertaining to obtaining agency recognition as an approved stockyard for swine and cattle, including electronic copies of documents created using electronic mail and word processing.

2. Department of the Army, Agency-wide (N1–AU–00–5, 3 items, 3 temporary items). Records relating to Army law library services and the continuing legal education of Judge Advocate officers. Library records include publication account inventories, surveys, and purchase orders. Continuing legal education files include correspondence, surveys, and recertification documentation. Also included are electronic copies of documents created using electronic mail and word processing.

3. Department of the Army, Agency-wide (N1–AU–98–7, 2 items, 2 temporary items). Reports and other records pertaining to the inspection and testing of grounding systems at ammunition and explosives facilities to protect against lightening strikes and power surges. Included are electronic copies of documents created using electronic mail and word processing.

4. Department of Defense, Office of the Secretary of Defense (N1–330–00–1, 1 item, 1 temporary item). Elementary school student record files pertaining to pupils in Defense Department schools. Files contain documents on enrollment, registration, achievement test results, and grades. This schedule reduces the retention period for these records, which were previously approved for disposal.

5. Department of Defense, Defense Contract Audit Agency (N1–372–00–1, 4 items, 4 temporary items). Quality assurance records relating to audit management activities implemented to ensure that appropriate audit standards, policies, and procedures have been adopted and followed. Included are electronic copies of records created using electronic mail and word processing. This schedule also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of Defense, Defense Contract Audit Agency (N1–372–00–2, 5 items, 4 temporary items). Agency corres-pondence with individual

members of Congress concerning letters from their constituents and other inquiries not relating to congressional committees. Included are electronic copies of records created using electronic mail and word processing. This schedule also authorizes the agency to apply the disposition instructions proposed for temporary records to any recordkeeping medium. Also proposed are minor changes in the disposition instructions for correspondence with congressional committees, which was previously approved for permanent retention.

7. Department of Defense, National Imagery and Mapping Agency (N1–537–00–1, 149 items, 149 temporary items). Records relating to security matters. Records pertain to such subjects as the protection of classified information and facilities, security violations, security surveys and inspections, release of security classified information, security policy, communications security, the issuance of identification cards and badges, vehicle registration, counterintelligence, and personnel security. Also included are electronic copies of documents created using electronic mail and word processing.

8. Department of Justice, Federal Bureau of Prisons (N1–129–00–5, 5 items, 5 temporary items). Records relating to the maintenance and inspection of agency facilities. Included are such records as inspection reports, log books, work orders, and electronic copies of documents created using electronic mail and word processing.

9. Department of Justice, Justice Management Division (N1–60–00–6, 5 items, 1 temporary item). Photographs of routine events, such as employee award ceremonies and retirement parties, and photographic portraits of agency personnel other than top-level officials. Proposed for permanent retention are photographs relating to the Attorney General and to significant events and activities as well as a commemorative photo album relating to Attorney General Robert F. Kennedy.

10. Department of Justice, Immigration and Naturalization Service (N1–85–00–1, 2 items, 2 temporary items). Fingerprint tracking system database records and computer tapes used for the inter-agency transfer of fingerprint information. Data in the system includes name, date and place of birth, and other information concerning aliens who are required to submit fingerprints as well as such information as date fingerprints were submitted to the Federal Bureau of Investigation and type of response provided by the FBI.

11. Department of Health and Human Services, Administration for Children and Families (N1–292–99–1, 2 items, 2 temporary items). Administrative files of the Preschool Education Program, dating from 1969–1970, that consist of travel orders, requests for information, trip reports, hotel reservations, conference schedules, and related correspondence. Also included are statistical printouts of the Refugee Resettlement Program, dating from 1987–1989, that contain incomplete demographic data. These printouts were created from a database that is already in the National Archives.

12. Department of Health and Human Services, Health Resources and Services Administration (N1–512–00–1, 10 items, 7 temporary items). Older records accumulated by the Health Resources and Services Administration, 1964–1976. Included are such records as questionnaires, requests for information, thank-you letters, personal health surveys, teeth charts, x-ray files, grant proposals, follow-up reports, evaluations of technical proposals, financial data, personnel folders, and administrative planning files. Records proposed for permanent retention include subject files of the director of the Office of Family Benefits Planning, subject files of the director of the National Center for Health Services Research, and files relating to activities of the U.S. National Committee on Vital and National Health Statistics.

13. Department of Labor, Office of Inspector General (N1–174–00–2, 10 items, 10 temporary items). Formal case files and a related case file tracking system, notations and logs of telephone calls received on the Inspector General's Fraud, Waste and Abuse Hotline, correspondence containing anonymous or vague allegations, and electronic copies of records created using electronic mail and word processing. Summaries of important cases and information concerning other significant activities are included in the Inspector General's Semiannual Report to the Congress, which was previously approved for permanent retention.

14. Department of the Treasury, Internal Revenue Service (N1–58–00–2, 2 items, 2 temporary items). Paper copies of the quarterly report submitted to Congress concerning century date change activities. Reports include information on project status, conversion strategies, and the cost in funds and staff time. Also included are electronic copies of records created using electronic mail and word processing.

15. Federal Energy Regulatory Commission, Office of General Counsel (N1–138–98–15, 3 items, 3 temporary items). Reports and related records documenting deviations from established standards of conduct by transmission providers occurring during an emergency. Included are electronic copies of documents created using electronic mail and word processing.

16. Federal Energy Regulatory Commission, Office of Chief Accountant (N1–138–98–17, 6 items, 6 temporary items). Requests for approval by the Chief Accountant for variations in accounting procedures and records retention (AC dockets) and requests for Commission approval of changes in depreciation rates (DR dockets). AC dockets include requests for accounting/journal entries for losses and related taxes, extensions of time for filing submissions, and files documenting records retention and disposal actions. DR dockets include petitions requesting changes in depreciation rates retained for accounting purposes only. Also included are electronic copies of documents created using electronic mail and word processing that relate to both AC and DR dockets.

17. Federal Energy Regulatory Commission, Office of Electric Power Regulation (N1–138–98–6, 10 items, 10 temporary items). Docket case files related to transmission service, stranded cost recovery, declaration of non-jurisdictional status, and applications for exempt wholesale generator status. Case files include complaints, statements of positions, motions to intervene, requests and petitions, briefs, testimony and exhibits, and related documents. Docket sheets and agency compilations of formal documents were previously approved for permanent retention.

18. Kahoolawe Island Conveyance Commission, Agency-wide (N1–220–00–2, 16 items, 8 temporary items). Paper copies of agendas and minutes, reports, public hearing summaries, testimony, public hearing transcripts, legislative files, correspondence, and publications are proposed for disposal as is a duplicate video recording. The original copy of this video recording and microfilm copies of paper files are proposed for permanent retention in the National Archives. Records proposed for disposal will be transferred to the archives of the State of Hawaii.

19. National Archives and Records Administration, Information Security Oversight Office (N1–64–00–3, 6 items, 3 temporary items). Working papers compiled during the drafting of the office's Annual Report to the President. Also included are electronic copies of documents created using electronic mail and word processing that relate to annual reports and the office's oversight of government-wide information

security programs. Proposed for permanent retention are recordkeeping copies of Annual Reports to the President and files relating to executive branch information security programs.

20. Nuclear Regulatory Commission, Office of Human Resources (N1–431–00–15, 43 items, 31 temporary items). Electronic records in the Commission's Agency-wide Document Access and Management System (ADAMS) accumulated by the Office of Human Resources, including electronic copies of records created using office automation tools and of records used to create ADAMS portable document format files. The electronic recordkeeping copies of case files that document the resolution of differing professional views are proposed for disposal along with paper copies of these records that pre-date ADAMS. Also proposed for disposal are electronic recordkeeping copies of such records as committee and conference files that pertain to committees and conferences for which NRC is not the sponsor, subject files accumulated below the office director level, routine correspondence files, and training aids acquired from private institutions or other agencies. Paper copies of these records were previously approved for disposal. Paper copies of awards files, excluding those filed in official personnel folders, are also proposed for disposal. Series proposed for permanent retention include electronic recordkeeping copies of awards files accumulated at the Commission level, records of committees and conferences for which NRC is the sponsor, differing professional opinion files, subject files accumulated at the office director level, and training aids developed by the Commission. This schedule also proposes minor changes in the disposition instructions for paper copies of committee and conference records, which were previously scheduled.

21. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel (N1–431–00–16, 44 items, 34 temporary items). Electronic records in the Commission's Agency-wide Document Access and Management System (ADAMS) accumulated by the Atomic Safety and Licensing Board Panel (ASLBP), including electronic copies of records created using office automation tools and of records used to create ADAMS portable document format files. Proposed for disposal are electronic recordkeeping copies of such records as advisory screening committee consultant personnel files, records of committees and conferences for which NRC is not the sponsor, subject files accumulated below the office director level, routine correspondence files, monthly status reports to Commissioners, power reactor license docket files, and transcripts of ASLBP hearings. Paper copies of these records were previously approved for disposal. Series proposed for permanent retention include electronic recordkeeping copies of records related to committees and conferences for which NRC is the sponsor, subject files accumulated at the office director level, memoranda to panel board members, technical memos, and regulatory history files for proposed and final rulemaking.

22. Nuclear Regulatory Commission, Office of the Chief Information Officer (N1–431–00–17, 67 items, 51 temporary items). Electronic records in the Commission's Agency-wide Document Access and Management System (ADAMS) accumulated by the Chief Information Officer, including electronic copies of records created using office automation tools and of records used to create ADAMS portable document format files. Record materials associated with ADAMS legacy libraries in all media are proposed for disposal as are duplicate reference files of the Public Document Room, ADAMS Publicly Available Records System (PARS) Library records, and records associated with the Nuclear Documents System (NUDOCS). Electronic recordkeeping copies of annual reports to the Attorney General on the Freedom of Information Act are proposed for disposal as are paper copies of these records that pre-date ADAMS. Other files proposed for disposal include records of committees and conferences for which NRC is not the sponsor, working papers and background materials associated with forms files, subject files accumulated below the office director level, routine correspondence files, the electronic final copies of graphic art products, half-tone negatives and camera-ready copy, and publication working papers. Paper copies of these records were previously approved for disposal. Series proposed for permanent retention include electronic recordkeeping copies of records related to committees and conferences for which NRC is the sponsor, subject files accumulated at the office director level, posters distributed agency-wide or to the public, copies of all publications, and regulatory history files. This schedule also proposes minor changes in the disposition instructions for paper copies of committee and conference records, which were previously scheduled.

23. Nuclear Regulatory Commission, Office of General Counsel (N1–431–00–18, 71 items, 59 temporary items). Electronic records in the Commission's Agency-wide Document Access and Management System (ADAMS) accumulated by the General Counsel, including electronic copies of records created using office automation tools and of records used to create ADAMS portable document format files. Records proposed for disposal include electronic recordkeeping copies of records related to committees and conferences for which NRC is not the sponsor, subject files accumulated below the office director level, routine correspondence files, licensing docket formal hearing files, and patent and technical data files. Paper copies of these records were previously approved for disposal. Paper copies of conflict of interest files and personal opinion files are also proposed for disposal. Series proposed for permanent retention include electronic recordkeeping copies of Commission memorandum files, records of committees and conferences for which NRC is the sponsor, subject files accumulated at the office director level, legislative files, litigation case files, and regulatory history files.

24. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research (N1–431–00–19, 99 items, 67 temporary items). Electronic records in the Commission's Agency-wide Document Access and Management System (ADAMS) accumulated by the Office of Nuclear Regulatory and Research, including electronic copies of records created using office automation tools and of records used to create ADAMS portable document format files. Records proposed for disposal include electronic recordkeeping copies of records related to committees and conferences for which NRC is not the sponsor, subject files accumulated below the office director level, routine correspondence files, grants case files, unsuccessful grant applications, grant administrative files, nuclear safety standards program files accumulated in connection with the development of standards and guides, personnel monitoring reports and overexposure reports that have been entered into the Radiation Exposure Information System (REIRS), rejected research project proposals, research program files at and below the division level, and all other research project case files not identified as permanent. Paper copies of these records were previously approved for disposal. Series proposed for permanent retention include electronic recordkeeping copies of records related to abnormal occurrence case files, case study report files, formal arrangement and agreement files, program correspondence files

accumulated at the office director level, final products related to grants files, nuclear safety standards and guides, personnel monitoring reports and overexposure reports not placed on REIRS, REIRS system programming and documentation, regulatory history files for proposed and final rulemaking, research program files accumulated at the office director level, scientific and technical reports, and research project case files deemed by NRC or NARA to have exceptional value.

25. Tennessee Valley Authority, Engineering Services (N1–142–98–2, 10 items, 6 temporary items). Correspondence files documenting routine administrative functions such as budget and finance, equipment and supplies, training and staff development, and warehousing. Included are electronic copies of documents created using electronic mail and word processing. Correspondence files documenting substantive program policy and planning matters are proposed for permanent retention. These include files on organization and management and systems engineering.

26. Tennessee Valley Authority, Fossil and Hydro Power (N1–142–98–8, 2 items, 2 temporary items). General procedures for plant operations, including maintenance, safety, environmental, and administrative requirements, and similar procedures specific to individual agency sites. This schedule provides for the disposal of both paper copies of these records as well as electronic copies maintained in an agency-wide document management system.

27. Tennessee Valley Authority, Water Management (N1–142–97–16, 17 items, 17 temporary items). Environmental chemistry laboratory procedures and analysis records relating to the testing of water samples. Included are files on standardized procedures, laboratory notebooks, raw data analyses, reports to clients, and electronic systems and related files used to record the results of tests and monitor instruments and equipment.

Dated: March 1, 2000.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 00–5484 Filed 3–6–00; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts, Leadership Initiatives Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Advisory Panel (International Section) to the National Council on the Arts will be held on March 13, 2000. The panel will meet from 9 to 9:30 a.m. in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 12, 1999, these sessions will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: March 2, 2000.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 00–5569 Filed 3–6–00; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL INSTITUTE FOR LITERACY

Proposed Agency Information Collection Activities; Comment Request

AGENCY: National Institute for Literacy.

ACTION: Notice of information collection.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), this notice announces an Information Collection Request (ICR) by the NIFL. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before April 6, 2000.

ADDRESSES: Submit written comments to: National Institute for Literacy, 1775 I Street, NW, Suite 730, Washington, DC 20006, Attention: William B. Hawk. Copies of the complete ICR and accompanying appendixes may be obtained from the above address or by contacting William B. Hawk at (202) 233–2042. Comments may also be submitted electronically by sending electronic mail (e-mail) to: whawk@nifl.gov.

All written comments will be available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION:

Title: Application for Literacy Information and Communication System (LINCS) Special Collection Development Partners Awards to organizations to support the creation and maintenance of subject specific sets of literacy-related information on LINCS.

Abstract: The National Institute For Literacy (NIFL) was created by the National Literacy Act of 1991 and amended by the Workforce Investment Act of 1998 to provide a national focal point for literacy activities and to facilitate the pooling of ideas and expertise across a fragmented field. The Act authorizes the NIFL to conduct basic and applied research and demonstrations on literacy; collect and disseminate information to Federal, State, and local entities with respect to literacy; and improve and expand the system for delivery of literacy services. The NIFL will provide funding to organizations for the creation of in-depth literacy-related collections of subject specific information on LINCS. Evaluations to determine successful applications will be made by a panel of literacy experts and information specialists using the published criteria. The NIFL will use this information to make up to 10 cooperative agreement awards for a period of up to three years.

Burden Statement: The burden for this collection of information is estimated at 40 hours per response for the first year. This estimate includes the time needed to review instructions, complete the form, and review the collection of information. No more than 10 applicants will be awarded a three-year cooperative agreement grant. Each awardee will have an annual update of the application requiring an average of 30 hours per response for each continuation year.

Respondents: Public and private non-profit organizations.

Estimated Number of Respondents: 25.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 52 hours.

Frequency of Collection: One time. Send comments regarding the burden

estimate or any other aspect of the information collection, including suggestions for reducing the burden to: National Institute for Literacy, 1775 I Street, NW, Suite 730, Washington, DC 20006, Attention: William B. Hawk. Comments may also be submitted electronically by sending electronic mail (e-mail) to *whawk@nifl.gov.*

Request for Comments

NIFL solicits comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. (ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information. (iii) Enhance the quality, utility, and clarity of the information to be collected. (iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies of other forms of information technology, e.g., permitting electronic submission of responses.

Dated: March 2, 2000.

Jaleh Behroozi Soroui,

LINCS Project Director, NIFL.

[FR Doc. 00–5482 Filed 3–6–00; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL INSTITUTE FOR LITERACY

Proposed Agency Information Collection Activities; Comment Request

AGENCY: National Institute for Literacy.

ACTION: Notice of information collection.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), this notice announces an Information Collection Request (ICR) by the NIFL. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before April 6, 2000.

ADDRESSES: Submit written comments to: National Institute for Literacy, 1775 I Street, NW, Suite 730, Washington, DC 20006, Attention: Jaleh Behroozi Soroui. Copies of the complete ICR and accompanying appendixes may be obtained from the above address or by contacting Jaleh Behroozi Soroui at (202) 233–2039. Comments may also be submitted electronically by sending electronic mail (e-mail) to: jbehroozi@nifl.gov.

All written comments will be available for public inspection from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION:

Title: Application for Literacy Information and Communication System (LINCS) Regional Technology Centers Awards to organizations to support the creation of regional technology coordinating centers to expand and coordinate LINCS services at the regional and state level.

Abstract: The National Institute For Literacy (NIFL) was created by the National Literacy Act of 1991 and amended by the Workforce Investment Act of 1998 to provide a national focal point for literacy activities and to facilitate the pooling of ideas and expertise across a fragmented field. The Act authorizes the NIFL to conduct basic and applied research and demonstrations on literacy; collect and disseminate information to Federal, State and local entities with respect to literacy; and improve and expand the system for delivery of literacy services. The NIFL will provide funding to organizations for the creation of regional technology centers that will represent and promote LINCS within their region; work with the NIFL and other regional technology centers to improve and expand LINCS; provide literacy-related resources through LINCS; and train organizations and individuals in the use of LINCS and technology, and carryout such other tasks as called for in the information collection request. Evaluations to determine successful applications will be made by a panel of literacy experts and information specialist using the published criteria. The NIFL will use this information to make up to 5 cooperative agreement awards for a period of up to three years.

Burden Statement: The burden for this collection of information is estimated at 55 hours per response for the first year. This estimate includes the time needed to review instructions, complete the form, and review the collection of information. No more than five applicants will be awarded a three-year cooperative agreement grant. Each awardee will have an annual update of the application requiring an average of 40 hours per response for each continuation year.

Respondents: Public and private non-profit organizations.

Estimated Number of Respondents: 15.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 79 hours.

Frequency of Collection: One time. Send comments regarding the burden estimate or any other aspects of the information collection, including suggestions for reducing the burden to: National Institute for Literacy, 1775 I Street, NW, Suite 730, Washington, DC 20006, Attention: Jaleh Behroozi Soroui. Comment also can be sent by email to the following address: jbehroozi.nilf.gov.

Request for Comments

NIFL solicits comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. (ii) Evaluate the accuracy of the agency's estimates of the burden of the propose collection of information. (iii) Enhance the quality, utility, and clarity of the information to be collected. (iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies of other forms of information technology, *e.g,* permitting electronic submission of responses.

Dated: March 2, 2000.

Jaleh Behroozi Soroui,

LINCS Project Director, NIFL.

[FR Doc. 00–5483 Filed 3–6–00; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL INSTITUTE FOR LITERACY

[CFDA No. 84.2571]

Literacy Leadership Fellowship Program

AGENCY: National Institute for Literacy.

ACTION: Notice Inviting Applications for the Literacy Leader Fellowship Program.

Purpose of Program: The Literacy Program is designed to provide Federal financial assistance to adult learners and to individuals pursuing careers in adult education or literacy in the areas of instruction, research, or innovation. Under the program, literacy workers and adult learners are applicants for fellowships.

Deadline for Transmittal of Applications: Applications must be received at the National Institute for Literacy no later than 5:00 p.m. May 8, 2000.

Available Funds: $125,000.

Estimated Range of Awards: $40,000–09$70,000.

Estimated Average Size of Awards: $60,000.

Estimated Number of Awards: 2–3.

Note: The National Institute for Literacy is not bound by any estimates in this notice.

Project Period: Projects will be not less than three and no more than 12 months of full or part-time activity. Projects will begin no earlier than September 2000, and end no later than September 2001.

Applicable Regulations: The regulations governing the National Institute for Literacy's Literacy Fellowship Program as published in the March 7, 2000 issue of the **Federal Register**. The regulations are also available on-line at http://www.nifl.gov/activities/fllwhome.htm.

While the Institute is administered by an Interagency agreement with the U.S. Departments of Education, Labor, and Health and Human Services, the specific policies and procedures of these agencies regarding rulemaking and administration of grants are not adopted by the Institute except as expressly stated in this Notice and in the regulations.

Transmittal of Applications: An original and seven (7) copies of applications for award must be received by the Institute on or before the deadline date by May 8, 2000.

Applications delivered by mail: Applications sent by mail must be addressed to National Institute for Literacy, 1775 I Street, NW, Suite 730, Washington, DC 20006–2417, Attention: (CFDA#84.257I).

An applicant is encouraged to use registered, certified, or first-mail.

Late applicants will be notified that their applications will not be considered, and their applications will be returned.

Applications delivered by Hand: Applications that are hand-delivered must be taken to the National Institute for Literacy, 1775 I Street, NW, Suite 730, Washington, DC 20006–2417.

The Institute will accept hand-delivered applications between 8:30 a.m. and 5:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays and Federal holidays. Applications that are hand-delivered will not be accepted by the Institute after 5:00 p.m. on the due date:

Acknowledgement of Applications: The Institute will mail an Applicant Receipt Acknowledgment to each applicant within 15 days from the due date. If an applicant fails to receive the application acknowledgment, call the National Institute for Literacy at (202) 233–2055.

The applicant must indicate on the outside of the envelope the CFDA number of the competition under which the application is being submitted.

Application Forms: Applicants are required to submit the following forms, assurances and certifications:

(a) Application Information and Budget Summary (NIFL Form No. 001)

(b) Assurances—Non-Construction Programs (Standard Form 424B).

(c) Certification Regarding Lobbying: Debarment, Suspension, and other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

(d) Disclosure of Lobbying Activities (Standard Form LLL) (if applicable); and

(e) Certification of Eligibility for Federal Assistance in Certain Programs (ED 80–0016).

The NIFL form, assurances, and certifications must each have an original signature. No award can be made unless these forms are submitted.

Prescribed Format: (a) Applicants will also be required to submit a proposal narrative. The narrative should be no more than 8 pages in length.

(b) The narrative format should meet the following criteria:

(i) The application should be double spaced

(ii) The application should use 12 point font

(iii) The application should have one inch margins on all four sides.

(c) Applicants should also submit a resume, budget narrative, and four letters of recommendation.

Note: For applicants who propose to conduct the fellowship project on a part-time basis while undertaking other paid employment, one of the four required letter of recommendation must be from the applicant's employer, and must include a statement that the applicant's workload will not exceed 100% of time.

Prescribed Order: Applicants should arrange their application submission in the following order:

i. NIFL Form 001
ii. Budget Narrative
iii. Application Narrative
iv. Resume
v. Letters of Recommendation
vi. Standard Form 424B
vii. ED 80–0013
viii. Standard Form LLL (if applicable)
ix. ED 80–0016

Priorities: (a) The Director invites applications for Literacy Leader Fellowships that meet one of the following priorities for 2000.

(b) The priorities for 2000 are major areas of concern in the literacy field that are currently being addressed in the Institute's work.

(c) An application may be awarded up to 5 bonus points for addressing a priority, depending on how well the application meets the priority.

(d) The publication of these priorities does not bind the Institute to fund only applications addressing a priority. The Director is especially interested in fellowship applications that address one of the priorities, but not to the exclusion of other significant issues that may be proposed by applicants.

(e) The priorities selected from the regulations for 2000 are as follows:

(1) *Developing Leadership in Adult Learners.* Because Adult learners are the true experts on literacy, they are an important resource for the field. Their firsthand experience as ''customers'' of the literacy system can be invaluable in assisting the field in moving forward, particularly in terms of raising public awareness and understanding about literacy. Projects that enhance best practices or the adult learner network will be given priority consideration.

(2) *Expanding the Use of Technology in Literacy Programs.* One of the NIFL'S major projects is the Literacy Information and Communication System (LINCS), an Internet based information system that provides timely information and abundant resources to the literacy community. Keeping the literacy community up to date in the information age is vital. Projects that improve or increase use of technology will be given priority consideration.

(3) *Improving Accountability for Literacy Programs.* Legislation that has passed both houses of the U.S. Congress emphasizes that literacy programs must develop accountability systems that demonstrate their effectiveness in helping adult learners contribute more fully in the workplace, family and community. Projects that focus on results-oriented literacy practice, especially as related to the Equipped for the Future (EFF) framework, are a priority.

(4) *Raising Public Awareness about Literacy.* The NIFL is leading a national effort to raise public awareness that literacy is part of the solution to many social concerns, including the well-being of children, health, welfare and the economy. Projects that enhance this effort will be given priority consideration.

SUPPLEMENTARY INFORMATION: National Educational Goal 6, which is included in the Goals 2000: Educate America Act, puts forward an ambitious agenda for adult literacy and lifelong learning in America. To further this goal, the Congress passed Public Law 105–220, the National Literacy Act of 1991, which was the first piece of national legislation to focus exclusively on literacy [the act has since been superseded by the Public Law 105–220, the Workforce Investment Act of 1998]. The overall intent of the National Literacy Act, as stated, is:

To enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to

function effectively and achieve the greatest possible opportunity in their work and in their lives and to strengthen and coordinate adult literacy programs.

In designing the National Literacy Act, among the primary concerns shared by the Congress and literacy stakeholders was the fragmentation and lack of coordination among the many efforts in the field. To address these concerns, the National Literacy Act created the National Institute for Literacy to:

(A) provide a national focal point for research, technical assistance, and research dissemination, policy analysis and program evaluation in the area of literacy; and

(B) facilitate a pooling of ideas and expertise across fragmented programs and research efforts.

Among the Institute's authorized activities is the awarding of fellowships to outstanding individuals who are pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation. These fellowships are to be awarded for activities that advance the field of adult education and literacy.

FOR FURTHER INFORMATION CONTACT: To receive an application package, contact EDPubs, P.O. Box 1398, Jessup, MD 20794, 1–800–228–8813, TTY/TTD 1–877–576–7734, email: edpubs@inet.ed.gov. Substantive questions regarding proposal content can be obtained from: Jennifer Cromley, National Institute for Literacy, 1775 I Street, NW, Suite 730, Washington, DC 20006–2417. Telephone: 202/233–2053, Fax: 202/233–2051. E-mail: jcromley@nifl.gov. The entire application package and information about the Literacy Leader Fellowship program is also available on-line (including all of the required forms) at http://www.nifl.gov/activities/fllwhome.htm.

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, 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 3430–0003, Expiration Date 6/30/2000. The time required to complete this information collection is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and disseminating the data needed, and completing and reviewing the collection of information. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: the National Institute for Literacy, 1775 I Street, NW, Suite 730, Washington, DC 20006–2417.

Program Authority: 20 U.S.C. 1213c.

Dated: March 2, 2000.

Carolyn Staley,

Deputy Director, NIFL.

[FR Doc. 00–5522 Filed 3–6–00; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL SKILL STANDARDS BOARD

Notice of Open Meeting

AGENCY: National Skill Standards Board.

ACTION: Notice of open meeting.

SUMMARY: The National Skill Standards Board was established by an Act of Congress, the National Skill Standards Act, Title V, Public Law 103–227. The 23-member National Skill Standards Board will serve as a catalyst and be responsible for the development and implementation of a voluntary national system of skill standards and certification through voluntary partnerships which have the full and balanced participation of business, labor, education, civil rights organizations and other key groups.

TIME AND PLACE: The meeting will be held from 8:30 a.m. to approximately 12 p.m. on Wednesday, March 22, 2000, at the Isle of Capri Crowne Plaza Resort, 151 Beach Boulevard, Biloxi, Mississippi 39530, (228 435–5400).

AGENDA: The agenda for the Board Meeting will include: an update from the Board's committees; presentation from representatives of the Sales & Service Voluntary Partnership (SSVP), Education and Training (E&T) and Manufacturing Skill Standards Council (MSSC).

PUBLIC PARTICIPATION: The meeting, from 8:30 a.m. to 12 p.m., is open to the public. Seating is limited and will be available, on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities should contact Leslie Donaldson at (202) 254–8628, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Dave Wilcox, Executive Deputy Director at (202) 254–8628.

Dated: Signed at Washington, D.C. 29th day of February, 2000.

Edie West,

Executive Director, National Skill Standards Board.

[FR Doc. 00–5498 Filed 3–6–00; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–317]

Baltimore Gas and Electric Company; Notice of Consideration of Issuance of Amendment To Facility Operating License, Proposed No Significant Hazards Condideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–53 issued to Baltimore Gas and Electric Company (BGE or the licensee) for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1 located in Calvert County, Maryland.

The proposed amendment would approve an issue involving the Societie Alsacienne Construction Mechaniques Del Melhouse (SACM) diesel generator (DG) that constitutes an unreviewed safety question. Specifically, a new failure mode has been identified for DG 1A (SACM) that is not adequately described in the Updated Final Safety Analysis Report. The manufacturer has indicated that operating the engine in a light load condition may degrade engine performance and ultimately result in engine failure.

Baltimore Gas and Electric Company has determined that acceptance of the new failure mode constitutes an unreviewed safety question. BGE requests approval through an amendment to their operating license that concludes that the new failure mode is acceptable on the basis that BGE will assure on every shift that safety-related loads are sufficiently available to DG 1A to ensure that minimum load requirement is met. Otherwise, DG 1A will be declared inoperable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR

50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The DGs are the standby, onsite source of power for the safety-related systems necessary to safely shut down the units following a design basis accident and/or a loss-of-offsite power. The proposed change would revise the operating license to conclude that the new failure mode for DG 1A is acceptable.

Diesel generators are not initiators in any previously evaluated accidents. Therefore, the proposed change does not involve an increase in the probability of an accident previously evaluated. For DG 1A to be considered operable, the required minimum load must be available to DG 1A from safety-related sources.

The proposed change accepts operation with the new failure mode of DG 1A because the required minimum load required will be met by having safety-related loads available to DG 1A. Having the safety-related loads available will ensure DG 1A will be capable of performing its safety function. Therefore, accepting the unreviewed safety question for DG 1A does not involve a significant increase in the consequences of an accident previously evaluated.

Based on the above, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new different type of accident from any accident previously evaluated.

The proposed change does not involve a significant change in the operation of the plant and no new or different accident initiation mechanism is created by accepting the new failure mode. Diesel Generator 1A is not being modified by the proposed change nor will an unusual operator action be required. The DG 1A will continue to operate in the same manner. Therefore, the proposed change does not support the possibility of a new different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The margin of safety of the DGs is to provide a reliable standby, onsite source of power for the safety-related systems necessary to safely shut down the units following a design basis accident and/or a loss-of-offsite power. The proposed change accepts the new failure mode for the DG because the required minimum load requirement will be met by having the safety-related loads available to DG 1A. Therefore, accepting the DG as-is does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below. By April 6, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert

opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment. A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW. Washington, 20037 attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 18, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 1st day of March 2000.

For The Nuclear Regulatory Commission.

Alexander Dromerick,

Project Manager, Section I, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–5475 Filed 3–6–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–22]

CBS Corporation, Test Reactor at Waltz Mill, PA; Notice of Consideration of Approval of Transfer of Facility License and Conforming Amendment and Opportunity for a Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on February 29, 2000 (65 FR 10841), in which the Commission is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility License No. TR–2 currently held by CBS Corporation as the owner and responsible licensee. This action is necessary to correct two erroneous dates.

FOR FURTHER INFORMATION CONTACT: Theodore S. Michaels, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, telephone 301–415–1102, e-mail: tsm1@nrc.gov.

SUPPLEMENTARY INFORMATION:

1. On page 10841, in the second column, in the third complete paragraph, ''March 30, 2000,'' is corrected to read ''March 20, 2000.''

2. On page 10841 in the third column, in the second complete paragraph, line three, ''April 10, 2000,'' is corrected to read ''March 30, 2000.''

Dated at Rockville, Maryland, this 2nd day of March 2000.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 00–5474 Filed 3–6–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–30 & 50–185]

Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and 10 CFR 50.82(b)(5) Concerning Proposed Action To Decommission National Aeronautics and Space Administration (NASA Plum Brook Reactor Facility

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from the National Aeronautics and Space Administration (NASA) dated December 20, 1999, for a license amendment approving its proposed decommissioning plan for the NASA Plum Brook Reactor (Facility License Nos. TR–3 and R–93) located at Plum Brook Station in Sandusky, Ohio.

In accordance with 10 CFR 20.1405, the Commission is providing notice and soliciting comments from local and State governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning. This notice and solicitation of comments is published pursuant to 10 CFR 20.1405, which provides for publication in the **Federal Register** and in a forum such as local newspapers, letters to State or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site. Comments should be provided within 90 days of the date of this notice to Ledyard B. Marsh, Chief, Events Assessment, Generic Communications, and Non-Power Reactors Branch, Mail Stop O12–D1, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Further, in accordance with 10 CFR 50.82(b)(5), notice is also provided of the Commission's intent to approve the plan by amendment, subject to such conditions and limitations as it deems appropriate and necessary, if the plan demonstrates that decommissioning will be performed in accordance with the

regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the application is available for public inspection at the Commission's Public Document Room, the Gelman Building, at 2120 L Street NW., Washington, DC 20037. It is also available through http://www.nrc.gov/OPA/reports under ''What's New on This Page,'' ''Decommissioning,'' or ''Other Documents.''

Dated at Rockville, Maryland, this 28th day of February 2000.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Chief, Events Assessment, Generic Communications, and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 00–5476 Filed 3–6–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal-Hydraulic Phenomena; Revised

The ACRS Subcommittee meeting on Thermal-Hydraulic Phenomena scheduled for March 14–15, 2000, has been changed to a one-day meeting on March 15, 2000, 8:30 a.m., Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. During this session, the Subcommittee will: (1) Begin review of the thermal-hydraulic issues associated with the pressurized thermal shock (PTS) Screening Criterion Reevaluation Project being conducted by NRC Office of Nuclear Regulatory Research (RES); (2) discuss the NRC staff acceptance review of the Siemens S–RELAP5 and GE Nuclear Energy TRACG codes; and (3) discuss the status of the NRC staff's review of the EPRI RETRAN–3D code. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Notice of this meeting was published in the **Federal Register** on Friday, February 18, 2000 (65 FR 10122). All other items pertaining to this meeting remain the same as previously published.

For further information contact: Mr. Paul A. Boehnert, cognizant ACRS staff engineer, (telephone 301/415–8065) between 7:30 a.m. and 4:45 p.m. (EST).

Dated: March 1, 2000.

Howard J. Larson,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–5472 Filed 3–6–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of March 6, 13, 20, 27, April 3 and 10, 2000.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 6

Tuesday, March 7

12:55 p.m.
Affirmation Session (Public Meeting) (if needed).

1:00 p.m.
Briefing on Improvements in the Reactor Oversight Process (Public Meeting) (Contact: Bill Dean, 301–415–1257)

Week of March 13—Tentative

There are no meetings scheduled for the Week of March 13.

Week of March 20—Tentative

Wednesday, March 22

9:25 a.m.
Affirmation Session (Public Meeting) (if needed)

Friday, March 24

9:30 a.m.
Briefing on Evaluation of the Requirement for Licensee to Update Their Inservice Inspection and Inservice Testing Program Every 120 Months (Public Meeting) (Contact: Tom Scarbrough, 301–415–2794)

Week of March 27—Tentative

Thursday, March 30

8:55 a.m.
Affirmation/Discussion and Vote (Public Meeting) (If needed)

9:00 a.m.
Briefing on EEO Program (Public Meeting) (Contact: Irene Little, 301–415–7380)

Friday, March 31

9:25 a.m.
Affirmation Session (Public Meeting) (if needed)

9:30 a.m.
Briefing on Risk-informed Regulation Implementation Plan (Public Meeting) (Contact: Tom King, 301–415–5790)

Week of April 3—Tentative

There are no meetings scheduled for the Week of April 3.

Week of April 10—Tentative

There are no meetings scheduled for the Week of April 10.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 5–0 on March 1, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Discussion of Intragovernmental Issues'' (Closed-Ex. 9) be held on March 1, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: March 3, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–5616 Filed 3–3–00; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Report to Congress on Abnormal Occurrences, Fiscal Year 1999; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974 (Public Law 93–438) identifies an abnormal occurrence (AO) as an unscheduled incident or event that the U.S. Nuclear Regulatory Commission (NRC) determines is significant from the standpoint of public health or safety.

The Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66) requires that AOs be reported to Congress annually. During fiscal year 1999, 13 events that occurred at facilities licensed or otherwise regulated by the NRC and/or the Agreement States were determined to be AOs. These events are discussed below. As required by Section 208, the discussion for each event includes the date and place, the nature and probable consequences, the cause or causes, and the action taken to prevent recurrence. Each event is also being described in NUREG–0090, Vol. 22, ''Report to Congress on Abnormal Occurrences, Fiscal Year 1999.'' This report will be available electronically at the NRC Public Electronic Reading Room link <*http://www.nrc.gov/NRC/ADAMS/index.html*> at the NRC Homepage.

Nuclear Power Plants

None of the events that occurred at U.S. nuclear power plants during fiscal year 1999 was determined to be significant enough to be reported as an abnormal occurrence (AO) to Congress.

Fuel Cycle Facilities (Other Than Nuclear Power Plants)

The following event that occurred at a fuel cycle facility during fiscal year 1999, was determined to be significant enough to be reported as an AO to Congress.

99–1 Fire Breaches Containment and Requires Shutdown of a Portion of the Cascade at the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio

Date and Place—December 9, 1998; Portsmouth Gaseous Diffusion Plant, a uranium enrichment plant, operated by Lockheed Martin Utility Services for the United States Enrichment Corporation, located about 3.2 kilometers (2 miles) east of Piketon, Ohio.

Nature and Probable Consequences—On December 9, 1998, the certificate holder's operations staff observed a series of abnormal conditions associated with the side purge cascade, Cell 25–7–2. The staff's immediate response to the abnormal conditions was not successful in restoring normal operations and an exothermic reaction was either started or propagated within the cascade. The exothermic reaction continued until sufficient heat was generated to cause a failure of the Cell 25–7–2 cooling system, initiating a second exothermic reaction. Subsequent heat and pressure increases within the side purge cascade resulted in: (1) The creation of holes within the process gas cascade boundary of Cell 25–7–2; (2) an automatic shutdown of the side purge cascade caused by the motor load overcurrent protection system that provides ''Defense in Depth;'' (3) the activation of a portion of the Building X–326 automatic fire suppression sprinkler system; (4) an emergency response and approximately 2 hours of firefighting activities by the onsite fire department; and (5) challenges to the continued operation of the remainder of the process gas cascade.

There were no measurable radiological consequences or chemical consequences to the plant staff or the general public from the release of radioactivity during this event. The holes created in the side purge cascade equipment and piping created a credible pathway for water to accumulate in unsafe geometry sections of the cascade. This led to the need to revise the criticality safety basis for this portion of the side purge cascade.

Cause or Causes—The extensive fire damage experienced by Cell 25–7–2 equipment has made it difficult to determine the root cause. Much of the equipment has been damaged to such an extent that evidence needed to determine the root cause was destroyed. The investigation by the certificate holder identified two possible initiating events: a physical failure of the compressor impeller or a chemical deposit caused by wet air leakage into the equipment. In either event, mechanical friction within the process gas cascade equipment generated a sufficient amount of sustained heat to begin an exothermic reaction between the aluminum compressor components and the process gas (uranium hexafluoride). On the basis of a review of some of the Cell 25–7–2 components removed since the fire, the exothermic reaction was believed to have been initiated in the Stage 2 compressor and propagated through the cell equipment to the Stage 4 compressor. In the Stage 4 compressor, the reaction was thought to have been intensified by the input gases, received from the remainder of the cascade, resulting in increasing internal process gas cascade temperatures until there was a failure in the freon coolant system boundary. Elevated pressure, caused by the introduction of freon from the coolant system and a second exothermic reaction between the hot metal and freon, was thought to be the final event that occurred before the holes were burned in the process gas cascade boundary.

Actions Taken To Prevent Recurrence

Certificate Holder—Initial compensatory and corrective measures implemented by the plant staff as a result of the fire included: (1) administrative controls to preclude a restart of the side purge cascade and some other plant operations pending the completion of a root cause evaluation for the fire; (2) immediate manual vibration monitoring of other centrifugal compressors to search for other unstable equipment; (3) covering of openings created in the process gas piping and equipment of Cell 25–7–2 as a result of the fire; (4) development of a revised nuclear criticality safety basis for Cell 25–7–2; (5) interim training of cascade operators and managers on the lessons learned about operations from the event; and (6) interim training of firefighters and management on the safety risks of and the proper fire fighting techniques for a fire concurrent with holes in process gas cascade equipment. The long-term corrective actions include the following ''Defense in Depth'' features and administrative actions: (1) adding process gas temperature monitoring to detect high temperature reactions in a timely manner; (2) adding alarm and automatic shutdown systems on the side purge compressors for compressor high-process gas temperature to protect against the propagation of high-temperature accidents by detecting hot spots in a timely manner; (3) improving the process for evaluating and responding to cascade component vibrations to improve the identification of precursors to a hot metal reaction; and (4) completing procedures for improving operator response to other precursors to hot metal reactions. These corrective actions will be instituted prior to re-introducing process gas into the side purge cascade.

NRC—An augmented inspection team was sent to the site on December 9, 1998. The team documented its findings in an inspection report issued on February 19, 1999. A follow-up inspection was conducted in March 1999 to evaluate the effectiveness of the certificate holder's corrective actions. Although the follow-up inspection team found the certificate holder's corrective actions adequate, several procedural and reporting violations were identified during the follow-up inspections. One violation was that the event met the criteria for an ''Alert'' declaration and that the certificate holder failed to identify and declare the Alert. Since many credible accidents postulated for the Portsmouth Gaseous Diffusion Plant can occur suddenly and last a short duration, it is important for the certificate holder to make proper and timely emergency declarations that would lead to timely notifications to the

appropriate regulatory agencies. Therefore, even though, in this case, there were no significant radiological releases to the environment, the NRC staff considered the certificate holder's failure to declare an Alert, which is the lowest level emergency category, a serious violation (Level III) that carried a $55,000 civil penalty. The certificate holder acknowledged the violation and paid the civil penalty.

This event is closed for the purpose of this report.

Other NRC Licensees (Industrial Radiographers, Medical Institutions, etc.)

The following three events that occurred at institutions licensed or otherwise regulated by NRC during fiscal year 1999, were determined to be significant enough to be reported as abnormal occurrences (AOs) to Congress.

99–2 Medical Event Involving the Administration of Iodine-131 to a Pregnant Patient at St. Joseph Health Center in Kansas City, Missouri

Date and Place—October 6, 1998; St. Joseph Health Center; Kansas City, Missouri.

Nature and Probable Consequences—After a patient was administered a 5.75 gigabecquerel (155.2 millicurie) dosage of iodine-131 (I-131) for ablation of residual thyroid tissue and for the treatment of metastatic thyroid cancer, the patient was determined to be pregnant.

Preceding the administration of the I-131 therapy dosage, the licensee's nuclear medicine technologist and the authorized user, following internal policies and procedures to determine the pregnancy status of a patient, repeatedly questioned the patient regarding the possibility of a pregnancy and whether she was breast-feeding. The patient stated that she was not breast-feeding and there was no possibility of pregnancy. Approximately 3½ hours after the I-131 administration, the licensee received the positive results of a pregnancy test previously ordered by the patient's referring physician. The licensee had not been aware that the referring physician had ordered the pregnancy test.

Upon notification of the pregnancy, the licensee told the patient she was pregnant and attempted to minimize the potential exposure to the fetus by having the patient increase fluid intake in order to flush the free iodine from her system. The licensee also notified the patient's referring physician of the event. Ultrasound performed following identification of the pregnancy confirmed that the patient had been approximately 13½ weeks pregnant with twins at the time of the procedure.

The licensee does not expect the patient to experience any ill effects. The dose equivalent to each fetus was estimated to be about 0.38 sievert (Sv) (38 rem) and the dose equivalent to each fetal thyroid was estimated to be in excess of 2,000 Sv (200,000 rem). The licensee expected that such a dose would result in the following likely effects to the fetuses: (1) Thyroid ablation; (2) a 30 percent increase in the likelihood of microcephaly (small head size); (3) a 20 to 50 percent increase in the probability of childhood cancer; and (4) an increased probability for mental retardation. On the basis of this information, the patient elected to terminate the pregnancy.

Cause or Causes—This medical event appears to have been caused by the licensee's reliance on the patient's statements preceding the administration of I-131 that she was not pregnant. The patient's referring physician had ordered a pregnancy test for the patient preceding the administration of I-131; however, neither the patient nor the referring physician had informed the licensee. The referring physician believed that the pregnancy test was standard practice preceding all radiopharmaceutical therapy treatments.

Actions Taken To Prevent Recurrence

Licensee—The licensee modified its internal procedures for the administration of therapeutic radiopharmaceuticals, including diagnostic quantities of I-131 in excess of 7.4 megabecquerel (MBq) (200 microcurie [vvvCi]). All such procedures will include a statement that female patients between the ages of 10 and 55 years, without exception, prescribed to receive I-131 dosages equal to or greater than 7.4 MBq (200 vvvCi) shall obtain a ''beta serum pregnancy test'' within 24 hours preceding administration.

NRC—The NRC staff reviewed the licensee's revised procedures and determined that they were adequate to address the cause of this medical event and to preclude similar events. Because the licensee made a reasonable effort to obtain a confirmation from the patient that she was not pregnant before the I-131 administration, no NRC requirements were violated.

The corrective actions taken by the licensee were voluntary and were not required by NRC regulations.

This event is closed for the purpose of this report.

99–3 Medical Event Involving the Administration of Iodine-131 to a Pregnant Patient at Camden-Clark Memorial Hospital in Parkersburg, West Virginia

Date and Place—September 1, 1998; Camden-Clark Memorial Hospital; Parkersburg, West Virginia. The investigation on this event was completed in Fiscal Year 1999.

Nature and Probable Consequences—A patient was administered 340 megabecquerel (MBq) (9.2 millicurie [mCi]) of sodium iodide-131 (I-131) in accordance with licensee procedures for the treatment of hyperthyroidism. However, after the procedure was performed, the licensee learned that the patient was pregnant.

On July 15, 1998, the patient was scheduled for a thyroid uptake and scan involving the administration of 7.62 MBq (0.206 mCi) of iodine-123 (I-123). Before performing the procedure, the licensee's nuclear medicine technologist asked the patient if she was pregnant. The patient indicated that she was not pregnant and the technologist administered the dosage of I-123. On August 4, 1998, the patient was examined by one of the licensee's authorized users. As part of the examination, the patient was asked about her pregnancy status and she again stated that she was not pregnant. The licensee confirmed with the patient's referring physician a negative pregnancy test, performed on May 5, 1998. The authorized user determined that the patient was a good candidate for I-131 therapy based on the results of the thyroid scan and other tests and prepared a written directive for the administration of 333 MBq (9 mCi) of I-131. The authorized user informed the patient about the effects of I-131 to the fetus if it is administered to a pregnant patient. The patient signed a form acknowledging the risks associated with the procedure, as explained by the authorized user, and stated that she would not become pregnant for 1 year after the I-131 procedure.

The patient returned to the licensee's facility on September 1, 1998, and was administered 340 MBq (9.2 mCi) of I-131 in accordance with the written directive and other licensee procedures regarding the administration of radiopharmaceuticals. On October 5, 1998, the patient informed the licensee about recent information she received indicating that she was about 5 months pregnant. Subsequently, it was determined that the patient had been 14 weeks pregnant at the time of the administration.

The licensee personnel contacted a pediatric endocrinologist for assistance

in calculating the thyroid and the whole-body doses to the fetus. Using the information supplied by the licensee, the dose equivalent to the fetus was estimated to be about 0.023 sievert (Sv) (2.3 rem) and the dose equivalent to the fetal thyroid to be about 88 Sv (8,800 rem). The fetus received intra-amniotic thyroid hormone therapy from high-risk pregnancy specialists at a major university hospital.

On October 8, 1998, the licensee notified the patient's referring physician of the event and potential consequences. On October 20, 1998, the licensee notified the NRC of the event. The NRC staff engaged a medical consultant to evaluate the incident. The consultant concluded that: (1) the hypothyroidism developed in the fetal thyroid is expected to be permanent; (2) there is no increase in the risk of thyroid carcinoma; (3) a radiation-induced severe mental retardation is unlikely; and (4) the risk of leukemia and other childhood cancers is slightly higher than normal. At the time of the evaluation of this event the patient had decided to continue the pregnancy.

Cause or Causes—The cause of the event was the licensee's assumption that the patient was not pregnant at the time the radiopharmaceutical was administered based on the verbal and written statements made by the patient to the licensee staff.

Actions Taken To Prevent Recurrence

Licensee—The licensee is considering professional standards such as the 1996 American College of Radiology's ''Standard for the Performance of Therapy with Unsealed Radioactive Sources,'' which specifies acceptable methods for ruling out pregnancy preceding the administration of therapeutic doses of radiopharmaceuticals. These include a pregnancy test obtained within 48 hours preceding administration of the radiopharmaceutical; or documented hysterectomy or tubal ligation; or post-menopausal condition.

NRC—An inspection was conducted to review the circumstances of the event. Because the licensee made a reasonable effort to obtain a confirmation from the patient that she was not pregnant before the I-131 administration, no NRC requirements were violated.

The corrective actions taken by the licensee were voluntary and were not required by NRC regulations.

This event is closed for the purpose of this report.

99–4 Sodium Iodide Radiopharmaceutical Misadministration at Holy Redeemer Hospital and Medical Center in Meadowbrook, Pennsylvania

Date and Place—September 14, 1999; Holy Redeemer Hospital and Medical Center; Meadowbrook, Pennsylvania.

Nature and Probable Consequences—A patient's referring physician intended for the patient to receive a thyroid uptake and scan. The licensee routinely performed this procedure using iodine-123 (I-123). However, because of an error, the patient was administered iodine-131 (I-131).

The authorized user intended to administer 11.1 megabecquerel (MBq) (0.300 millicurie [mCi]) of I-123 to a patient for the evaluation of hyperthyroidism. However, no one prepared a written directive to indicate the type of thyroid procedure to administer. The patient was mistakenly listed on the licensee's schedule for a whole-body imaging as part of an evaluation for thyroid cancer therapy. The licensee routinely performs this type of procedure using I-131. Therefore, the licensee's technologist administered a 196.1 MBq (5.3 mCi) dosage of I-131 without obtaining a written directive. As a result of this error, the licensee's medical physicist determined that the patient's thyroid received an unintended dose of about 41.9 gray (4,190 rad) based on a 65 percent uptake.

The NRC's consultant stated that the impact of the misadministration on the status of the patient's health should be negligible, with no expected long-term disability. The licensee believes that no harm was done to the patient because the patient's condition required additional thyroid treatment using I-131. The patient was notified of the misadministration on September 16, 1999, and a written report was prepared. The patient's referring physician was also notified.

Cause or Causes—The technologist performed a thyroid procedure using I-131 without a written directive from an authorized user. The licensee's authorized user was not involved in the process of administration of I-131 to clarify what type of thyroid evaluation was needed for the patient.

Actions Taken to Prevent Recurrence

Licensee—The licensee counseled the technologist on the importance of implementing the NRC regulations.

NRC—The NRC staff conducted a special safety inspection on September 17, 1999, and is evaluating enforcement options.

This event is closed for the purpose of this report.

Agreement State Licensees

The following nine events, which occurred at Agreement State licensees during fiscal year 1999, were determined to be significant enough for reporting as AOs to Congress.

AS 99–1 Medical Event Involving the Administration of Iodine-131 to a Pregnant Patient at Via Christi Regional Medical Center in Wichita, Kansas

Date and Place—May 7, 1999; Via Christi Regional Medical Center; Wichita, Kansas.

Nature and Possible Consequences—A pregnant patient was administered a 436.6 megabecquerel (MBq) (11.8 millicurie [mCi]) dosage of I-131 for a thyroid treatment.

Before the treatment, the technologist and the authorized user interviewed the patient regarding her pregnancy status and the patient certified that she was not pregnant and signed a consent form for the treatment. The patient then was administered the dosage of 436.6 MBq (11.8 mCi) of I-131. Approximately one week after the I-131 administration during a routine gynecological exam the patient learned that she was between 18 and 20 weeks pregnant.

A telephone report was made to the State of Kansas Radiation Control Program on May 12, 1999, and the State staff conducted an on-site investigation on May 13, 1999. They contacted the Department of Energy's Radiation Emergency Assistance Center/Training Site (REACTS) in Oak Ridge, Tennessee for assistance. REACTS provided initial medical guidance and dosimetry calculations and agreed to act as consultant to the attending physician.

The dose equivalent to the fetus was estimated to be about 0.03 sievert (Sv) (3 rem) and the dose equivalent to the fetal thyroid was about 253 Sv (25,300 rem). The fetal thyroid dose was considered to be ablative. The authorized user notified the patient and her husband about the fetal exposure and the possible consequences. The patient continued her pregnancy to full term.

Causes or Causes—The cause of the event was the licensee's assumption that the patient was not pregnant at the time the radiopharmaceutical was administered based on the verbal and written statements made by the patient to the licensee staff.

Actions Taken To Prevent Recurrence

Licensee—The licensee's radiation safety officer conducted an investigation and determined that the licensee's procedures and policies had been followed and that a reasonable effort

had been made to determine the pregnancy status of the patient preceding the administration of I-131. The licensee indicated a revision of its policy to require that all females of child-bearing age be tested for pregnancy preceding administration of therapeutic doses of radioactive material.

State Agency—The State staff conducted an investigation and agreed with the licensee's findings and believes that the licensee's proposal is adequate to prevent recurrence.

The corrective actions taken by the licensee were voluntary and were not required by the State Agency.

This event is closed for the purpose of this report.

AS 99–2 Industrial Radiography Occupational Overexposure at Global X-ray and Testing Corporation in Aransas Pass, Texas

Date and Place—December 31, 1998; Global X-ray and Testing Corporation; Aransas Pass, Texas.

Nature and Probable Consequences—A radiography trainee failed to retract a 4.6 terabecquerel (123 curie) source of iridium-192 into the shielded position after taking a radiograph (exposure). As a result, the trainee received an estimated TEDE of about 100 mSv (10 rem) and an extremity annual shallow-dose equivalent of about 30,000 to 50,000 mSv (3,000 to 5,000 rem).

On December 31, 1998, a radiographer and a radiography trainee were working at a job site. At about 6 p.m., the radiography trainee thought that the radiography work was completed and removed a tool belt with a dosimeter and an alarming ratemeter and placed it in the truck. However, the radiographer asked the trainee for assistance to obtain additional radiographs. The trainee tried to take an additional radiograph but the source would not crank and the trainee realized that the source was not retracted into the shielded position after the previous exposure. During this process, the trainee stood at the end of the guide tube for approximately 4 minutes at a distance of about 61 centimeters (2 feet) and touched the end of the guide tube where the source was located three or four times for about 2 or 3 seconds each time.

On January 10, 1999, signs of a radiation injury, including redness, dry skin, and slight swelling accompanied by aching pain, appeared in the index finger of the trainee's right hand. On January 27, 1999, the finger developed a callous. On follow-up of the symptoms, it was indicated that the trainee received an extremity annual shallow-dose equivalent of about 30,000 to 50,000 mSv (3,000 rem to 5,000 rem).

Cause or Causes—The company's president told the office manager that the radiographer could act as a trainer because the paperwork requesting to name the individual radiographer as a trainer had been mailed to the State's Bureau of Radiation Control. Therefore, the radiographer was sent with the trainee to the job site. However, the radiation safety officer later told the office manager and the president of the company that Global X-ray and Testing Corporation had not yet received a license amendment naming the radiographer as a trainer.

The radiographer had been a trainer for several other radiography companies and was familiar with the requirements for a trainer working with a trainee. However, the radiographer was new with the company, was not familiar with this trainee, and was not aware that the trainee was not a radiographer. Therefore, the trainee was not appropriately supervised.

The trainee thought that the work for the day was completed and took the belt off and put it in the truck. The dosimeter and alarming rate meter were on the tool belt and were not used during the additional exposures. An operating survey meter was available, but the trainee did not use it during the radiographs.

Actions Taken To Prevent Recurrence

Licensee—The licensee met with all the radiography personnel to discuss the incident and make a presentation on radiation safety. Trainees were told to verify they were assigned to work with a trainer before leaving for a job site and radiographers were told to verify whether or not they were assigned to work with trainees. A memorandum stating these requirements was added to the licensee's safety training program. The office manager was given a written reprimand, which stated that another violation of any radiation regulation or safety policy would result in immediate termination of employment. The radiographer and the radiographer trainee had their employment terminated.

State Agency—The licensee was cited for violations of the radiation safety program and an escalated enforcement conference was conducted. As a result, inspection of the licensee's program and the radiographers' audit frequency was increased. A ''Preliminary Report for Assessment of Administrative Penalties'' was compiled and the licensee requested a settlement conference with the State agency.

This event is closed for the purpose of this report.

AS 99–3 Industrial Radiography Overexposure to a Member of the Public at Professional Service Industries, Inc. in Seattle, Washington

Date and Place—December 16, 1998; Professional Service Industries, Inc.; Seattle, Washington.

Nature and Probable Consequences—The Washington State Department of Health was notified by Professional Service Industries, Inc. (PSI), that on December 16, 1998, a contractor's employee (member of the public) had accidentally handled a source guide tube containing a 2.22 terabecquerel (60 curie) iridium-192 radiography source at a temporary job site in Seattle, Washington.

A radiographer and a radiographer's assistant working for PSI were performing radiography at a large parking garage of an office building. The building entrances and the place where radiographs (exposures) were taken were properly posted. Two of the contractor's employees were allowed inside the parking garage along with the radiographer in order to mark locations for future radiographs. The radiographer was talking with the contractor's employees while a radiograph was in process. One of the contractor's employees needed a ladder and approached the ladder in the garage that was being used to support the radiography source collimator. The radiography source collimator was positioned on the top of the ladder. The contract employee's actions dislodged the collimator from the source guide tube. The radiographer's assistant, who was monitoring the floor above the parking garage, came back to the garage and saw the contractor's employee trying to reassemble the collimator and the guide tube. The radiographer's assistant immediately shouted a warning and the radiographer, being alerted, ran to crank in the source to a safe position.

PSI's radiation safety officer (RSO) at the Seattle office and the corporate RSO were notified and PSI began an immediate investigation, including a re-enactment. Preliminary shallow-dose equivalent estimates for the extremities ranged from 6 to 17 sievert (Sv) (600 to 1700 rem). The Washington State Department of Health's Radiation Control Program was notified approximately 4 hours after the incident occurred and an investigation team was dispatched the next morning. The Washington Radiation Control Program estimated that the individual received a shallow-dose equivalent of: (1) 6.8 Sv (680 rem) to the right thumb; (2) 1 Sv

(100 rem) to the right index finger; and (3) 1.7 Sv (170 rem) to the palm of the left hand. The TEDE was estimated to be less than 0.05 Sv (5 rem). A cytogenetic study by the Department of Energy's Radiation Emergency Assistance Center/Training Site in Oak Ridge, Tennessee, determined that the TEDE was in the range of 0.01 to 0.15 Sv (1 to 15 rem).

No physical signs of radiation damage to the contract employee's hands were observed by the primary physician during the weeks following the incident. The exposed individual and his physician were kept informed of the findings of the investigation.

Cause or Causes—The cause of the incident was attributed primarily to the radiographer's failure to: (1) maintain direct surveillance of a radiography operation; and (2) warn individuals in the area that an exposure was underway.

Actions Taken To Prevent Recurrence

Licensee—PSI has complied with the corrective actions recommended by the State by: (1) completing a 2-day training for the Seattle PSI radiography personnel based on the incident; (2) accelerating the schedule of field audits of the PSI Seattle radiography personnel; and (3) performing a cytogenetic study for the contractor's employee.

State Agency—PSI was cited for violations that resulted in the overexposure of a member of the public and for failure to maintain direct surveillance of the radiography operation by allowing a member of the public to enter a high-radiation area.

This event is closed for the purpose of this report.

AS 99–4 Gamma Stereotactic Radiosurgery (Gamma Knife) Misadministration at University of Maryland Medical Systems in Baltimore, Maryland

Date and Place—December 16, 1997; University of Maryland Medical Systems; Baltimore, Maryland. The State agency was notified of this misadministration on December 17, 1997, and performed an investigation of the event. The investigation was completed on October 23, 1998.

Nature and Probable Consequences—A patient was prescribed a radiation therapy treatment using a gamma knife device for a brain metastasis involving three lesions. The patient was prescribed 1,600 centigray (cGy) (1,600 rad) to the first lesion. However, because of an error in the treatment plan, the first lesion received 2,600 cGy (2,600 rad).

The neurosurgeon prepared the treatment plan for the first lesion. While treating the first lesion, the neurosurgeon prepared the treatment plans for the second and third lesions. However, the treatment plan for the second lesion unintentionally included the settings for a treatment of a focal point of the first lesion. The neurosurgeon and the oncologist reviewed the treatment plans but failed to identify any deviation from the prescribed dose. After the three lesions had been treated, the medical physicist who reviewed the dose calculations determined that an error occurred that resulted in an overdose to the first lesion. The licensee's oncologist determined that the administered overdose was within the range of acceptable prescribed dose for intracranial lesions. It was not anticipated that any complications would occur in addition to those normally seen with this type of therapy treatment.

The neurosurgeon notified the patient and the referring physician of the event on December 17, 1997. A letter confirming the discussion of the event was also sent to the patient on January 8, 1998. The patient died on January 20, 1998, of lung cancer.

Cause or Causes—This misadministration was caused by human error in preparing the treatment plans. The neurosurgeon and the oncologist did not follow procedures describing the team approach in treatment planning. Furthermore, the treatment planning procedure did not accurately reflect the role and responsibilities of each type of authorized user. Finally, the neurosurgeon and the oncologist reviewed and signed the treatment plan without identifying the unintended dose.

Actions Taken To Prevent Recurrence

Licensee—The licensee immediately implemented measures to ensure that treatment will only be carried out after planning for all treatment sites is completed. The medical physicist will participate in the entire treatment planning process and will review the treatment plan before the plan is executed. The neurosurgeon and the oncologist will collaborate at critical points in the process, such as dose selection, approval of the written plan, and initiation of treatment.

State Agency—The licensee was cited for violations that included training deficiencies, failure of the radiation safety committee and the radiation safety officer to assume their duties and responsibilities, failure to apply for and receive license amendments before changing procedures, and failure to comply with notification requirements. Enforcement action is pending.

This event is closed for the purpose of this report.

AS 99–5 Gamma Stereotactic Radiosurgery (Gamma Knife) Misadministration at Good Samaritan Hospital in Los Angeles, California

Date and Place—October 15, 1998; Good Samaritan Hospital; Los Angeles, California.

Nature and Probable Consequences—A patient was prescribed treatment of 9,000 centigray (cGy) (9,000 rad) to the left trigeminal nerve. However, the treatment was administered to the patient's right trigeminal nerve.

The licensee's medical physicist prepared a treatment plan for the wrong treatment site (right trigeminal nerve). The radiation oncologist, who was an authorized user on the license, signed the treatment plan without verifying the neurosurgeon's request, which listed the correct treatment site (left trigeminal nerve). Because the head restraint was positioned correctly on the patient, the medical physicist experienced difficulty positioning the patient in the gamma knife for the incorrect treatment site. In response to questions from the medical physicist, both the patient and the nurse informed him that the correct treatment site was the left trigeminal nerve. Inexplicably, this did not lead the medical physicist to recognize that he was about to treat the wrong trigeminal nerve. The error was discovered after the procedure was completed. As a result, the patient received a dose of 9000 cGy (9000 rad) to the wrong treatment site. During this procedure, the medical physicist was training another medical physicist on how to use the facility's gamma knife equipment. The patient's neurosurgeon was not present during this procedure because of a scheduling conflict, even though it was the licensee's standard practice for the neurosurgeon to be present.

Treatment of the intended left trigeminal nerve was postponed pending evaluation of the medical outcome of the treatment of the wrong trigeminal nerve. The patient's physician stated that the patient might experience increasing numbness on the affected area of the face within 1 to 18 months. If the numbness occurs, it may affect the plan for treating the prescribed left site.

Cause or Causes—The misadministration occurred because: (1) the medical physicist prepared a treatment plan for the wrong treatment site; (2) the radiation oncologist signed the treatment plan without properly

verifying it; and (3) the neurosurgeon was not present during the procedure, which differed from standard licensee practice. The radiation oncologist had not conferred with the patient before the treatment, which may have contributed to the incorrect site treatment. Although it is possible that his training of the other medical physicist distracted the medical physicist, this could not be determined as a contributing cause.

Action Taken To Prevent Recurrence

Licensee—The licensee revised the gamma knife treatment procedure to require that: (1) the treatment plan be verified before each procedure by the neurosurgeon, the radiation oncologist, and the medical physicist; (2) two of the three individuals (the neurosurgeon, the radiation oncologist, and the medical physicist) verify that the treatment program coordinates are correctly set; (3) either the neurosurgeon or the radiation oncologist verify the prescribed treatment site after the patient is positioned; and (4) the neurosurgeon and either the radiation physicist or the radiation oncologist be physically present during the treatment. Also, the radiation oncologist shall examine the patient before the treatment and verify the treatment site.

State Agency—The State cited the licensee for failure to report the therapeutic misadministration within 24 hours as required. The licensee was also cited for failure of the authorized user to verify the dosimetry plan and treatment programming.

This event is closed for the purpose of this report.

AS 99–6 Therapeutic Radiopharmaceutical Misadministration of Iodine-131 to the Wrong Individual at Hermann Hospital in Houston, Texas

Date and Place—August 4, 1999; Hermann Hospital; Houston, Texas.

Nature and Possible Consequences—A patient was scheduled to receive a 1010 megabecquerel (MBq) (27.3 millicurie [mCi]) dosage of iodine-131 (I-131) for a thyroid treatment. However, because of an identification error, the wrong individual was administered the I-131.

Two middle-aged female Asian patients were at the licensee's nuclear medicine department for different procedures. The patient who was scheduled to receive the I-131 dosage left the waiting room. The licensee's technologist approached the other patient to verify her name and date of birth by stating the name and date of birth of the patient who was to receive the I-131 treatment. The patient responded with ''yes,'' although she did not understand the questions. She also indicated she understood the instructions previously given to her about the I-131 treatment. Therefore, she was administered the dosage of I-131. Later it was found that the I-131 was administered to the wrong individual. The licensee ordered another dosage of I-131, which was administered to the correct patient as prescribed.

The licensee estimated that: (1) The dose to the patient's thyroid as a result of the misadministration was about 220 gray (22,000 rad); (2) the patient has about an 85 percent chance of losing thyroid function; and (3) replacement thyroid hormone will be required indefinitely. The patient's attending physician was contacted and remedial action was taken.

Causes or Causes—The patient who received the misadministration spoke English as a second language. She was asked identification questions that could be answered ''yes'' or ''no'' without her actually understanding the meaning of the questions. No further verification of the patient's identification was performed.

Actions Taken To Prevent Recurrence

Licensee—The licensee has changed procedures for all outpatient therapy treatments that involve radioactive materials. The format of questions for patient identification will be revised to read ''What is your name?'' and ''What is your date of birth?'' instead of ''Is your name * * *?'' or ''Is your date of birth * * *?'' Outpatients will also be asked to show a picture form of identification. In the case of pediatric patients, the child's parent or guardian must confirm the patient's identification.

State Agency—The licensee was cited for administering a therapeutic dosage of I-131 to the wrong individual, who had a normally functioning thyroid, and for the authorizing physician user not being physically present when therapy procedures were being performed. Enforcement action is pending.

This event is closed for the purpose of this report.

AS 99–7 Therapeutic Radiopharmaceutical Misadministration of Iodine-131 to the Wrong Individual at Milton Hospital in Milton, Massachusetts

Date and Place—July 31, 1998; Milton Hospital; Milton, Massachusetts. The information on this event was sent to the NRC staff in March 1999.

Nature and Possible Consequences—A patient was prescribed a diagnostic dosage of 270.1 megabecquerel (MBq) (7.3 millicurie [mCi]) of technetium-99m (Tc-99m) for a thyroid scan. However, the patient was erroneously administered a therapeutic dosage of 318.2 MBq (8.6 mCi) of iodine-131.

The licensee's technologist administered the patient the diagnostic dosage of 270.1 MBq (7.3 mCi) of Tc-99m. After this procedure was finished, the patient was asked to remain in the waiting room while the thyroid scan was processed. Because of an identification error, the patient was taken again into the treatment area by the authorized user and was administered the therapeutic dosage of I-131. This dosage was intended for another patient who was still in the waiting room. The patient was informed of the error.

The licensee believes that no harm was done because the patient's condition required additional thyroid treatment using I-131.

Causes or Causes—The authorized user, who also was the primary care physician for both patients, was aware that both patients were to have I-131 treatment. However, on the day of the incident, the patient should have received only the Tc-99m dosage. Since the authorized user failed to follow the established Quality Management Program (QMP) procedures requiring verification of the patient's identity by more than one method before administering radioactive material, the wrong individual was administered the I-131.

Actions Taken To Prevent Recurrence

Licensee—The licensee modified its procedures as follows: (1) The authorized user will review the chart for each therapy patient; (2) each chart will contain a photograph of the patient; (3) each patient will be identified by checking the photograph in the chart; (4) preceding the administration of radiopharmaceuticals, a band will be placed on the wrist of the identified therapy patient; and (5) the authorized user and the technologist will be present during the radiopharmaceutical administration. The written directive form for iodine therapy dosages was modified to include the changes made in the procedures.

State Agency—The State investigated this event on September 10 and 11, 1998, and the licensee was issued a Notice of Violation on September 14, 1998, for not following its submitted procedures for radiopharmaceutical therapy as outlined in the QMP. The State acknowledged the action taken by the licensee to prevent recurrence of this incident.

This event is closed for the purpose of this report.

AS 99–8 Therapeutic Radiopharmaceutical Misadministration of Samarium-153 at Merle West Medical Center in Klamath Falls, Oregon

Date and Place—March 10, 1999; Merle West Medical Center; Klamath Falls, Oregon.

Nature and Probable Consequences—A patient with metastatic prostate cancer was prescribed a dosage of 2,294 megabecquerel (MBq) (62 millicurie [mCi]) of samarium-153 (Sm-153) to palliate bone pain. However, because of an error, the patient was administered a dosage of 3,589 MBq (97 mCi) of Sm-153. The recommended dosage for the Sm-153 procedure is ''1 mCi per kg of body weight'' (37 MBq per kilogram [kg]) (1 mCi per 2.2 pounds [lb]).

The misadministration resulted in an additional dose of 200 centigray (cGy) (200 rad) to the bone marrow. The patient's other organs received additional doses that were below 1,000 cGy (1,000 rad). The hospital checked with the manufacturer, DuPont Merck Pharmaceutical Company, concerning possible side effects of the misadministration. The pharmaceutical company indicated that other studies have been done using 74 to 92.5 MBq per kg (2.0 to 2.5 mCi per 2.2 lb) of Sm-153 with no significant side effects.

Both the attending physician and the patient's family were notified of the misadministration.

Cause or Causes—This event was caused by a human error. The licensee indicated that the dosage was calculated using the patient's weight in pounds instead of kilograms.

Actions Taken To Prevent Recurrence

Licensee—The incident was discussed with the Radiation Safety Committee (RSC). The licensee revised its Quality Management Program (QMP) for the use of Sm-153 and strontium-89 therapy to require the prescribing physician to calculate and personally order the dosage. The RSC approved the changes to the QMP. The technologist involved in the procedure was counseled concerning therapy procedures, dosage administrations, and the importance of rechecking calculations.

State Agency—The State cited the licensee for failure to report the misadministration within the required time.

This event is closed for the purpose of this report.

AS 99–9 Sodium Iodide Radiopharmaceutical Misadministration at St. Edward Mercy Medical Center in Fort Smith, Arkansas

Date and Place—December 7, 1998; St. Edward Mercy Medical Center; Fort Smith, Arkansas.

Nature and Probable Consequences—A patient was prescribed a thyroid scan using 222 megabecquerel (MBq) (6 millicurie [mCi]) dosage of technetium-99m (Tc-99m) pertechnetate. However, the patient was administered about a 148 MBq (4 mCi) dosage of iodine-131 (I-131).

The medical center routinely received unit dosages from a nuclear pharmacy packaged in appropriately sized syringes ready for injection to patients. However, in this case, instead of being in a syringe, the dosage was in a glass vial within a large lead container. The shipping package also contained two dispensing straws. The shipping container, the lead ''pig,'' and the vial were labeled by the nuclear pharmacy as 222 MBq (6 mCi) of Tc-99m. The licensee's staff surveyed the incoming package but saw nothing unusual. The licensee's staff attributed the change in the appearance of the package (a glass vial instead of a syringe and the presence of the dispensing straws) to a mistake made by the nuclear pharmacy. Therefore, the oral solution of the I-131 dosage, mislabeled as Tc-99m, was drawn into a syringe and was injected into the patient.

The licensee's medical physicist determined that the dose to the patient's thyroid based on the radiopharmaceutical manufacturer's package insert was about 48 gray (4,800 rad). The patient was notified of the misadministration by the licensee's radiation safety officer (RSO). The patient's attending physician was also notified of the circumstances and possible complications. The RSO advised the patient to continue long-term follow-up with the primary care physician.

Cause or Causes—This event was caused by the nuclear pharmacy mislabeling a radiopharmaceutical dosage. Also, it appears that the medical center's nuclear medicine staff did not question or address the unusual package upon receipt.

Actions Taken To Prevent Recurrence

Licensee—The licensee reported this event to the Arkansas Department of Health on December 7, 1998, and submitted a written report on December 8, 1998. The center's management revised the policy and procedure for the receipt of radiopharmaceuticals from the nuclear pharmacy. The revision states that only I-131 radioactive dosages will be accepted in glass vials. Any suspect or other labeled isotope received in glass vials will be questioned or returned to the pharmacy for isotope verification. The nuclear pharmacy indicated that policies and procedures for dispensing radiopharmaceutical therapy products have been revised to prevent recurrence of similar incidents.

State Agency—The State staff performed an on-site investigation at the medical center and the nuclear pharmacy on December 8, 1998.

The investigation discovered violations associated with license conditions and regulations for activities conducted at the nuclear pharmacy.

This event is closed for the purpose of this report.

Dated at Rockville, Maryland, this 1st day of March, 2000.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Secretary of the Commission.

[FR Doc. 00–5473 Filed 3–6–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for Office and Management Budget Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 15g–4, SEC File No. 270–347, OMB Control No. 3235–0393; Rule 15g–5, SEC File No. 270–348, OMB Control No. 3235–0394; Rule 17a–8, SEC File No. 270–53, OMB Control No. 3235–0092; Rule 17Ac2–1 and Form TA–1, SEC File No. 270–95, OMB Control No. 3235–0084; Rule 19d–2, SEC File No. 270–204, OMB Control No. 3235–0205.

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 (''Commmission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Rule 15g–4 requires brokers and dealers effecting transactions in penny stocks for or with customers to disclose the amount of compensation received by the broker-dealer in connection with the transaction. It is estimated that approximately 270 respondents incur an average of 100 hours annually to comply with the rule.

Rule 15g–5 requires brokers and dealers to disclose to customers the amount of compensation to be received by their sales agents in connection penny stock transactions. It is estimated that approximately 270 respondents incur an average of 100 hours annually to comply with the rule.

Rule 17a–8 requires brokers and dealers to make and keep certain reports and records concerning their currency and monetary instrument transactions. The requirements allow the Commission to ensure that brokers and dealers are in compliance with the Currency and Foreign Transactions Reporting Act of 1970 (''Bank Secrecy Act'') and with the Department of the Treasury regulations under that Act. The reports and records required under this rule initially are required under Department of the Treasury regulations. Additional burden hours and costs are not imposed by this rule.

Rule 17Ac2–1 requires transfer agents to register with the Commission, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, and to amend their registration. It is estimated that on an annual basis, the Commission will receive approximately 250 applications for registration on Form TA–1 from transfer agents required to register as such with the Commission. Included in this figure are amendments made to Form TA–1 as required by Rule 17Ac2–1(c). Based upon past submissions, the staff estimates that the average number of hours necessary to comply with the requirements of Rule 17Ac2–1 is one and one-half hours, with a total burden of 375 hours.

Rule 19d–2 prescribes the form and content of applications to the Commission by persons desiring stays of final disciplinary sanctions and summary action of self-regulatory organizations (''SRO'') for which the Commission is the appropriate regulatory agency. It is estimated that approximately 30 respondents will utilize this application procedure annually, with a total burden of 90 hours, based upon past submissions. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 19d–2 is 3 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 2, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–5433 Filed 3–6–00; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–6974]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DOT.

ACTION: Request for comments on PREP triennial exercise schedule for 2000, 2001 and 2002.

SUMMARY: The Coast Guard, the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA) and the Minerals Management Service (MMS), in concert with the states, the oil industry and concerned citizens, developed the Preparedness for Response Exercise Program (PREP). This notice announces the PREP triennial cycle, 2000–2002, requests comments from the public, and requests industry participants to volunteer for scheduled PREP Area exercises.

DATES: Comments and related material must reach the Docket Management Facility on or before May 8, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following methods:

(1) By mail to the Docket Management Facility, (USCG–2000–6974), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments and documents, as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this notice on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice and general information regarding the PREP program and the schedule, contact Mr. Robert Pond, Office of Response, Plans and Preparedness Division (G–MOR–2), U.S. Coast Guard Headquarters, 2100 2nd St. SW., Washington, DC 20593–0001, telephone 202–267–6603, fax 202–267–4065 or e-mail rpond@comdt.uscg.mil. For questions on viewing, or submitting material to, the docket, contact Ms. Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: The PREP Area exercise schedule and exercise design manuals are available on the Internet at http://www.uscg.mil/hq/g-m/gmhome.htm (see index, then oil response). To obtain a hard copy of the exercise design manual, contact Ms. Melanie Barber at the Research and Special Programs Administration, Office of Pipeline Safety, at 202–366–4560. The 1994 PREP Guidelines booklet is available at no cost by writing or faxing the TASC Dept Warehouse, 3341 Q 75th Avenue, Landover, MD 20785, fax: 301–386–5394. The stock number of the manual is USCG–X0191. Please indicate the quantity when ordering. Quantities are limited to 10 per order.

Request for Comments

We encourage you to participate by submitting comments and related material. If you do so, please include your name and address, identify the docket number [USCG–2000–6974], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½

by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

Background and Purpose

The Coast Guard, EPA, RSPA and MMS developed the National Preparedness for Response Exercise Program (PREP) to provide guidelines for compliance with the Oil Pollution Act of 1990 (OPA 90) pollution response exercise requirements (33 U.S.C. 1321(j)). The guiding principles for PREP distinguish between internal and external exercises. Internal exercises are conducted within the plan holder's organization. External exercises extend beyond the plan holder's organization to involve other members of the response community. External exercises are separated into two categories: (1) Area exercises, and (2) Government-initiated unannounced exercises. These exercises are designed to evaluate the entire response mechanism in a given area to ensure adequate pollution response preparedness.

Since 1994, the USCG, EPA, MMS, and Office of Pipeline Safety (OPS) have published a triennial schedule of Area exercises. In short, the Area exercises involve the entire response community (Federal, State, local, and industry participants) and therefore, require more extensive planning than other oil spill response exercises. The PREP Guidelines describe all of these exercises in more detail. This notice announces the next triennial schedule of Area exercises.

If a company wants to volunteer for an Area exercise, a company representative may call either the Coast Guard or EPA On-Scene Coordinator (OSC) where the exercise is scheduled. Alternatively, if a company is interested in participating in an exercise where Coast Guard is the OSC, a representative may call Mr. Robert Pond at 202–267–6603, and he can facilitate scheduling the volunteer. Although either method will provide the same result, contact at the local level, with the OSC, is preferred.

The following is the revised PREP schedule for calendar years 2000, 2001, and 2002.

PREP SCHEDULE—GOVERNMENT-LED AREA EXERCISES

Area	Agency	Date/qtr [1]	Participant
Calendar Year 2000			
Florida Panhandle Area (MSO Mobile OSC)	CG	4/10–14	
EPA Region IX (EPA OSC)	EPA	7/10–14	
Northwest Area (MSO Portland OSC)	CG	8/14–18	
Western Lake Erie Area (tentative) (MSO Toledo OSC)	CG	9/18–22	Sun Oil.
Detroit Area (tentative) (MSO Detroit OSC)	CG	9/18–22	Detroit Edison.
North Coast Area (MSO San Francisco OSC)	CG	12/4–8	
Calendar Year 2001			
SW Louisana/SE Texas Area (MSO Port Arthur OSC)	CG	1	
New York, NY Area (Activities NY OSC)	CG	2	
Saulte Ste. Marie, MI Area (COTP Saulte Ste. Marie OSC)	CG	2	
EPA Region I Area (EPA OSC)	EPA	3	
Chicago Area (MSO Chicago OSC)	CG	3	
Maryland Coastal Area (Activities Baltimore OSC)	CG	4	
Calendar Year 2002			
Alabama/Mississippi Area (MSO Mobile OSC)	CG	1	
South Florida Area (MSO Miami OSC)	CG	2	
Boston Area (MSO Boston OSC)	CG	2	
Hawaii/Samoa Area (MSO Honolulu OSC)	CG	3	
Central CA Coast Area (MSO San Francisco OSC)	CG	3	
EPA Region VIII Area (EPA OSC)	EPA	4	

PREP SCHEDULE—INDUSTRY-LED EXERCISES

Area	IND [2]	Date/qtr	Lead
Caribbean Area (MSO San Juan OSC)	v		
EPA Region III Area (EPA OSC)	f (nonmtr)		
Cleveland, OH Area (MSO Cleveland OSC)	f (mtr)		
Jacksonville Area (MSO Jacksonville OSC)	v		
New Orleans Area (MSO New Orleans OSC)	p		
Commonwealth of N. Marianas Islands Area (MSO Guam OSC)	v		
EPA Alaska Area (EPA OSC)	f (nonmtr)		
EPA Region IV Area (EPA OSC)	f (nonmtr)		
Southeast Alaska Area (MSO Juneau OSC)	v		
Philadelphia Area (MSO Philadelphia OSC)	f (mtr)		
Charleston Area (MSO Charleston OSC)	f (mtr)		
EPA Region II (EPA OSC)	f (nonmtr)		

PREP SCHEDULE—INDUSTRY-LED EXERCISES

Area	IND [2]	Date/qtr	Lead
Calendar Year 2001			
Guam Area (MSO Guam OSC)	v		
San Diego, CA Area (MSO San Diego OSC)	f		
Morgan City Area (MSO Morgan City OSC)	v		
EPA Region VII Area (EPA OSC)	f (nonmtr)		
Long Island Sound Area (COTP Long Island Sound)	f		
Savannah Area (MSO Savannah)	p		
Southern Coastal NC Area (MSO Wilmington OSC)	v		
San Francisco Bay & Delta Region Area (MSO San Francisco OSC)	f (mtr)		
Duluth-Superior Area (MSO Duluth OSC)	f		
EPA Region V Area (EPA OSC)	f		
South Texas Coastal Zone Area (MSO Corpus Christi OSC)	v		
LA/LB North Area (MSO LA/LB OSC)	v		
Prince William Sound (MSO Valdez OSC)	p		
Calendar Year 2002			
Eastern Wisconsin Area (MSO Milwaukee OSC)	v		
EPA Oceania Area (EPA OSC)	f (non-mtr)		
Eastern Great Lakes Area (MSO Buffalo OSC)	f (mtr)		
EPA Region II (EPA OSC)	p		
Tampa Area (MSO Tampa OSC)	v		
Northwest Area (MSO Puget Sound OSC)	v		
Southern LA/LB Area (MSO LA/LB OSC)	f (mtr)		
Virginia Coastal Area (MSO Hampton Rds OSC)	f (mtr)		
Maine/New Hampshire Area (MSO Portland OSC)	v		
EPA Region VI Area (EPA OSC)	f (non-mtr)		
Providence Area (MSO Providence OSC)	v		
Houston/Galveston Area (MSO Houston/Galveston OSC)	p		

[1] *Quarters:* 1 (Jan–March); 2 (April–June); 3 (July–Sept); 4 (Oct–Dec). Note also that calendar year 2000 exercise areas and dates are fixed. For 2001 and 2002 government-led area exercises, the designated areas are fixed, the actual quarter in which a listed area will be exercised is subject to change based on workload projections in each of those areas as the exercise year approaches.

[2] *Industry:* v—vessel; f (mtr)—marine transportation-related facility; f (nonmtr)—nonmarine transportation-related facility; p—pipeline.

Dated: February 25, 2000.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–5486 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collections of information was published on October 7, 1999, [FR 64, pages 54720–54721].

DATES: Comments must be submitted on or before April 5, 2000. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

1. Title: Certification of Repair Stations—FAR Part 145.

Type of Request: Extension of currently approved collection.

Control Number: 2120–0010.

Form(s): FAA Form 8310–3.

Affected Public: An estimated 1100 applicants who wish repair station certification.

Abstract: Information is collected from applicants who wish repair station certification. Applicants submit FAA Form 8310–3 to the appropriate FAA district office for review. If the application is satisfactory, an onsite inspection is conducted. When all the requirements have been met, an air agency certificate and repair station operations specifications with appropriate ratings and limitations are issued.

Estimated Annual Burden Hours: 304,647 burden hours annually.

2. Title: Operating Requirements: Commuter and On-Demand Operation.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0039.

Form(s): FAA Form 8070–1.

Affected Public: An estimated 2765 air carrier and commercial operators.

Abstract: Each operator who seeks to obtain, or is in possession of, an air carrier or FAA operating certificate must comply with the requirements of 14 CFR Part 135 in order to maintain data which is used to determine if the carrier is operating in accordance with minimum safety standards.

Estimated Annual Burden Hours: 1,128,904 burden hours annually.

3. Title: Recording of Aircraft Conveyance and Security Documents.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0043.

Form(s): AC Form 8050–41.

Affected Public: 55,406 respondents.

Abstract: Approval is needed for security conveyances, such as mortgages, submitted by the public for recording against aircraft, engines, propellers, and spare parts locations.

Estimated Annual Burden Hours: 55,406 burden hours annually.

4. Title: Fleet and Operations Reporting: Grand Canyon National Park.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0606.

Form(s): N/A.

Affected Public: 24 operators.

Abstract: Each operator conducting air tours in the Grand Canyon National Park must comply with the collection requirements for that airspace. The FAA will use the information it collects and reviews to monitor compliance with the regulations and, if necessary, take enforcement action against violators of the regulations.

Estimated Annual Burden Hours: 48 burden hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: FAA Desk Officer.

Comments Are Invited On: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collections; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on March 2, 2000.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 00–5491 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Cleveland for Cleveland Hopkins International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Cleveland Hopkins International Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before August 23, 2000.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and the start of its review of the associated noise compatibility program is February 25, 2000. The public comment period ends April 25, 2000.

FOR FURTHER INFORMATION CONTACT: Lawrence King, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, 734–487–7293. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Cleveland Hopkins International Airport are in compliance with applicable requirements of part 150, effective February 25, 2000. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before August 23, 2000. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are bound by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing non-compatible uses and for the prevention of the introduction of additional non-compatible uses.

The City of Cleveland submitted to the FAA on February 23, 2000 noise exposure maps, descriptions and other documentation which were produced during a noise compatibility planning study conducted from January 1998 through February 2000. It was requested that the FAA review this material as the noise exposure maps, as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed it review of the noise exposure maps and related descriptions submitted by the city of Cleveland. The specific maps under consideration are the current Noise Exposure Map depicted as Exhibit 1–1 and the 2006 Noise Exposure Map depicted as Exhibit 1–3 in the submission. The FAA has determined that these maps for Cleveland Hopkins International Airport are in compliance with applicable requirements. This determination is effective on February 25, 2000. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the map were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which

consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Cleveland Hopkins International Airport, also effective on February 25, 2000. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before August 23, 2000.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following:

Federal Aviation Administration, 800 Independence Avenue, SW, Room 617, Washington, DC 20591

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

City of Cleveland, Department of Port Control, 5300 Riverside Drive, Cleveland, Ohio 44135–3193

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, on February 25, 2000.

James M. Opatrny,

Acting Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 00–5492 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration (RSPA), DOT

[Docket No. RSPA–99–5611; Notice 18]

Pipeline Safety: Northwest Pipeline Corporation Approved for Pipeline Risk Management Demonstration Program

AGENCY: Office of Pipeline Safety, DOT.

ACTION: Notice of risk demonstration project approval and finding of no significant impact.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) has issued a Risk Management Demonstration Project Order authorizing Northwest Pipeline Corporation (a part of Williams Gas Pipeline) to participate in the Pipeline Risk Management Demonstration Program. OPS has also made a finding that Northwest's demonstration project will have no significant impacts on the environment.

ADDRESSES: Comments on this or any other demonstration project will be accepted in the Docket throughout the 4-year demonstration period. Comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001, or you can E-Mail your comments to ops.comments@rspa.dot.gov. Comments should identify the docket number RSPA–99–5611. Persons should submit the original comment document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room 401, 400 Seventh Street, SW, Washington, DC. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Callsen, OPS, (202) 366–4572, regarding the subject matter of this document. Contact the Dockets Unit, (202) 366–5046, for docket material. Comments may also be reviewed on line at the DOT Docket Management System web site at http://dms.dot.gov/.

SUPPLEMENTARY INFORMATION:

Project Authorization

On January 11, 2000, OPS, pursuant to 49 U.S.C. 60126, issued Northwest Pipeline Corporation a Risk Management Demonstration Project Order authorizing Northwest to conduct a risk management project on its interstate natural gas transmission pipeline system that extends from Sumas, Washington to the San Juan Basin in Colorado. OPS has determined, after a comprehensive review of Northwest's demonstration project, that the project is expected to provide superior safety.

More detailed descriptions of all aspects of the Northwest demonstration project, including the OPS rationale for approving the project, are available in the following documents:

(1) 64 FR 67602, ''Pipeline Safety: Intent to Approve Project and Environmental Assessment for the Northwest Pipeline Corporation Pipeline Risk Management Demonstration Project,'' December 2, 1999.

(2) ''Demonstration Project Prospectus: Northwest Pipeline Corporation,'' available by contacting Elizabeth M. Callsen at 202–366–4572. Includes maps of the demonstration segments.

(3) ''Northwest Pipeline Corporation—Application for DOT–OPS Risk Management Demonstration Program,'' March 18, 1999, available via the Pipeline Risk Management Information System (PRIMIS), on the OPS Home Page at http://ops.dot.gov.

(4) Northwest Pipeline Corporation Final Work Plan, December 17, 1999, available via the Pipeline Risk Management Information System (PRIMIS), on the OPS Home Page at http://ops.dot.gov.

(5) ''Risk Management Demonstration Project Order'' for Northwest Pipeline Corporation, January 11, 2000.

Finding of No Significant Impact (FONSI)

OPS has reviewed Northwest's project for conformity with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4332), the Council on Environmental Quality implementing regulations (40 CFR 1500–1508), and Department of Transportation Order 5610.1c, Procedures for Considering Environmental Impacts. OPS conducted an Environmental Assessment of Northwest's project (64 FR 67602, ''Pipeline Safety: Intent to Approve Project and Environmental Assessment for the Northwest Pipeline Corporation Pipeline Risk Management Demonstration Project,'' December 2, 1999).

OPS received no public comment on the Environmental Assessment. Based on the analysis and conclusions reached in the Environmental Assessment and the analyses conducted in the above-listed documents, OPS has determined

that there are no significant impacts on the environment associated with this action. The Environmental Assessment and the other above-listed documents are incorporated by reference into this FONSI.

To summarize, OPS believes that the risk control activities Northwest is proposing for the Demonstration Project will provide superior protection for people living near the Northwest pipeline system when compared to current regulatory requirements. Although the project is expected to provide environmental benefits, due to the minimal environmental impact associated with gas pipeline failures, these beneficial impacts are not expected to be significant. The additional environmental protection comes primarily from reducing the likelihood that pipeline failures will occur. If the number of failures is reduced, the cumulative environmental damage from these failures will also be reduced. The reduction in the likelihood of future pipeline failures is expected to be realized system-wide through several activities and programs that exceed regulatory requirements, including:

- An expanded and enhanced geological hazards program. Northwest should improve its ability to anticipate when land movement near its pipeline might occur, and take appropriate action to prevent failure.
- The stress corrosion cracking coupon monitoring program. Northwest should be able to better understand when this condition might occur, and thus take appropriate remedial action.

In addition, Northwest is proposing specific activities to reduce the risk from increased population at the specific sites identified in the Environmental Assessment. These activities include:

- Enhanced third party damage prevention activities should reduce the likelihood that excavators will damage the line.
- Internal inspection and repair of anomalies will produce additional protection from corrosion, construction defects, and prior outside force damage.
- Installation of remote operators on block valves near areas of relatively high land movement potential. These remotely operated valves will allow the gas control center to rapidly isolate a section of the line if a failure occurs, thereby minimizing the duration of any fire that might occur.
- Improved training and exercises with emergency personnel on how to respond effectively to pipeline failures.

More detailed information on these risk control activities and their expected impacts is available in the Environmental Assessment referenced previously.

Issued in Washington, DC on March 1, 2000.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 00–5493 Filed 3–6–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

Delegation Order—Delegation of the Director's Authorities in 27 CFR Parts 4, 5, and 7, Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages

1. *Purpose.* This order delegates certain authorities of the Director to subordinate ATF officers and prescribes the subordinate ATF officers with whom persons file documents which are not ATF forms.

2. *Cancellation.* ATF O 1130.2, Delegation Order—Delegation to Bureau Headquarters Personnel of Authorities of the Director in 27 CFR Parts 4, 5, and 7, Federal Alcohol Administration Act, dated 5/29/96, is canceled.

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to labeling and advertising of wine, distilled spirits and malt beverages. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120–1 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701–9, this ATF order delegates certain authorities to take final action prescribed in 27 CFR Parts 4, 5, and 7 to subordinate officers. Also, this ATF order prescribes the subordinate officers with whom applications, notices, and reports required by 27 CFR Part 4, 5, and 7, which are not ATF forms, are filed. The attached table identifies the regulatory sections, documents and authorized ATF officers. The authorities in the table may not be redelegated. An ATF organization chart showing the directorates involved in this delegation order has been attached.

Bradley A. Buckles,

Director.

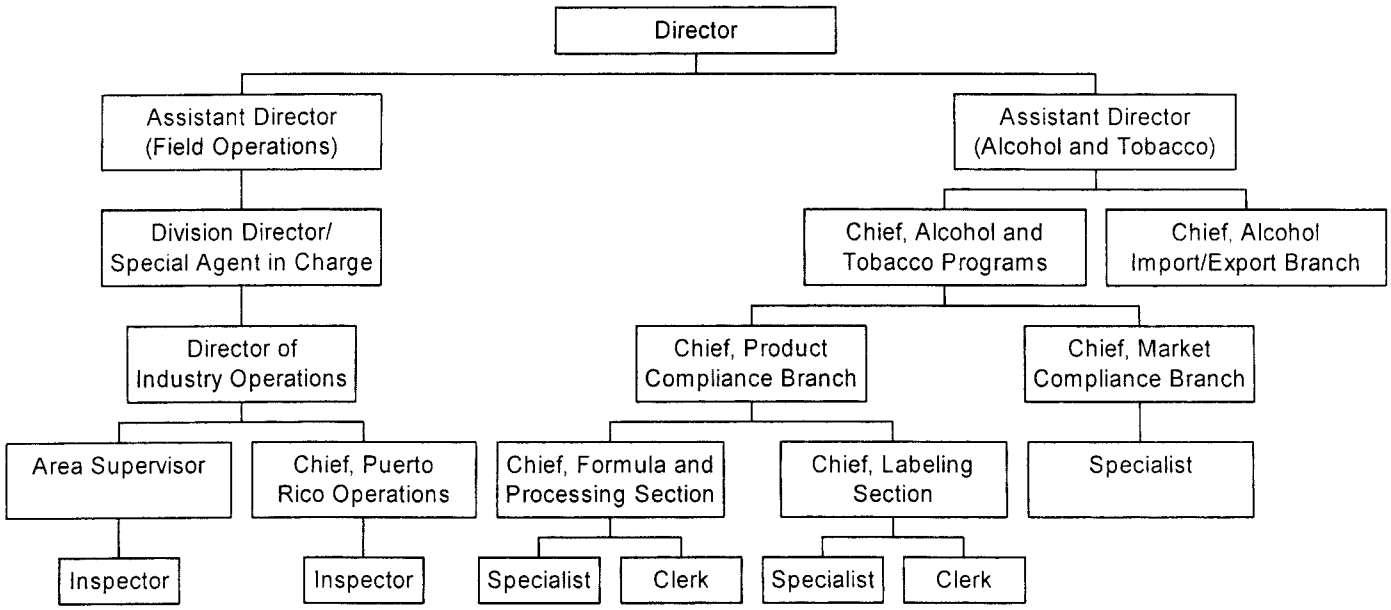
TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED, AND AUTHORIZED ATF OFFICIALS

Regulatory section	Officer(s) authorized to act or receive document
§ 4.3(a)	Chief, Product Compliance Branch.
§ 4.21(b)(3)(iii)	Chief, Product Compliance Branch.
§ 4.23(c)(2)	Chief, Product Compliance Branch.
§ 4.24(a)(1), (b)(1) and (c)(1)	Chief, Product Compliance Branch.
§ 4.30(b)(1)	Area Supervisor or Chief, Puerto Rico Operations.
§ 4.33(b)	Specialist, Product Compliance Branch.
§ 4.37(c)	Specialist, Product Compliance Branch.
§ 4.38(h)	Area Supervisor, Chief, Puerto Rico Operations, Specialist, Product Compliance Branch, or Chief, Alcohol Import/Export Branch.
§ 4.39(a) (4) and (5)	Specialist, Product Compliance Branch.
§ 4.39(d)	Specialist, Product Compliance Branch.
§ 4.39(g)	Specialist, Product Compliance Branch.
§ 4.39(i)(2)(iii)	Specialist, Product Compliance Branch.
§ 4.39(i)(3)	Specialist, Product Compliance Branch.
§ 4.39(j)	Specialist, Product Compliance Branch.
§ 4.40(c)	Specialist, Product Compliance Branch.
§ 4.50 (a) and (b)	Specialist, Product Compliance Branch.
§ 4.52	Specialist or Clerk, Product Compliance Branch.
§ 4.64(a) (4) and (5)	Specialist, Market Compliance Branch.
§ 5.3(a)	Chief, Product Compliance Branch.

TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED, AND AUTHORIZED ATF OFFICIALS—Continued

Regulatory section	Officer(s) authorized to act or receive document
§ 5.22(k) (1) and (2), and (1)(2).	Chief, Product Compliance Branch.
§ 5.26(b)	Specialist, Product Compliance Branch.
§ 5.28	Specialist, Product Compliance Branch.
§ 5.33(g)	Area Supervisor, Chief, Puerto Rico Operations, Specialist, Product Compliance Branch, or Chief, Alcohol Import/ Export Branch.
§ 5.34(a)	Specialist, Product Compliance Branch.
§ 5.35(a)	Specialist, Product Compliance Branch.
§ 5.36(d)	Specialist, Product Compliance Branch.
§ 5.38(c)	Specialist, Product Compliance Branch.
§ 5.42(a) (4) and (5) and (b)(7).	Specialist, Product Compliance Branch.
§ 5.46(d)	Specialist, Product Compliance Branch.
§ 5.51(c)	Specialist, Product Compliance Branch.
§ 5.55 (a) and (b)	Specialist, Product Compliance Branch.
§ 5.55(c)	Specialist or Clerk, Product Compliance Branch.
§ 5.65(a) (4) and (5) and (g)	Specialist, Market Compliance Branch.
§ 7.3(a)	Chief, Product Compliance Branch.
§ 7.20(c)(1)	Area Supervisor or Chief, Puerto Rico Operations.
§ 7.23(b)	Specialist, Product Compliance Branch.
§ 7.24(g)	Specialist, Product Compliance Branch.
§ 7.25(a)	Specialist, Product Compliance Branch.
§ 7.29(a)(4) and (a)(5) and (d).	Specialist, Product Compliance Branch.
§ 7.31(c)	Specialist, Product Compliance Branch.
§ 7.41	Specialist, Product Compliance Branch.
§ 7.54(a) (4) and (5)	Chief, Market Compliance Branch.

ATF Organization (Not a complete organizational chart.)



[FR Doc. 00–5359 Filed 3–6–00; 8:45 am]

BILLING CODE 4810–31–P

Corrections

Federal Register

Vol. 65, No. 45

Tuesday, March 7, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-182-000]

Young Gas Storage Company, Ltd.; Notice of Tariff Filing

Correction

In notice document 00–4455 beginning on page 10070 in the issue ofFriday, February 25, 2000, the docket line should appear as set forth above.

[FR Doc. C0–4455 Filed 3–6–00; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

Correction

In notice document 00–5348 beginning on page 11579 in the issue of Friday, March 3, 2000, make the following correction:

On page 11579, in the second column after the heading ''AGENCY HOLDING THE MEETING: Federal Maritime Commission.'', insert the following heading: ''TIME AND DATE: 10:00 a.m. - March 8, 2000.''

[FR Doc. C0-5348 Filed 3-6-00; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Uteroglobin in Treatment of IgA Mediated Autoimmune Disorders

Correction

In notice document 00–4009 beginning on page 8384 in the issue of Friday, February 18, 2000, make the following corrections:

On page 8384, in the third column, seven lines from the bottom, the sentence should end, ''on or before May 18, 2000, will be considered.''

[FR Doc. C0–4009 Filed 3–6–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-180-1430-ET; CACA 41334]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; California

Correction

In notice document 00–3983, beginning on page 8734, in the issue of Tuesday, February 22, 2000, in the third column, in the legal description under **Mount Diablo Meridian, Calfornia**, in the last line ''P='02'≤'' should be removed.

[FR Doc. C0–3983 Filed 3–6–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities

Correction

In notice document 00–4931 beginning on page 11108 in the issue of Wednesday, March 1, 2000, make the following correction:

On page 11108, in the third column, under the heading **ADDRESSES:**, in the sixth line, ''Attention 1550-0223'' should read '' Attention 1550-0023''.

[FR Doc. C0–4931 Filed 3–6–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
March 7, 2000

Part II

Department of Education

Indian Education Professional Development Grant Program; Notice

DEPARTMENT OF EDUCATION

Indian Education Professional Development Grant Program

AGENCY: Office of Indian Education, Department of Education.

ACTION: Notice of proposed priorities for fiscal year (FY) 2000 and subsequent fiscal years.

SUMMARY: The Secretary announces proposed funding priorities under the Indian Education Professional Development Grant program. The Secretary may use these priorities for competitions in FY 2000 and in subsequent fiscal years. The Secretary takes this action to support training opportunities to increase the number of Indian teachers, education administrators and personnel in other fields.

DATES: We must receive your comments on or before April 6, 2000.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Cathie Martin, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW, FOB–6 Room 3W111, Washington, D.C. 20202–6335. Comments may be sent through the Internet: Cathie—Martin@ed.gov. You must include the term ''Professional Development Program'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Cathie Martin. Telephone: (202) 260–1683. If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

This notice does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the publication of final priorities.

Invitation To Comment

We invite you to submit comments regarding these proposed priorities.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priority, in Room 3W115, 400 Maryland Avenue, SW, Washington, DC between the hours of 9 a.m. and 5:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or printer magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service (FIRS) at 1–800–877–8330.

SUPPLEMENTARY INFORMATION:

General

The Secretary has authority to establish priorities, including absolute preferences, under section 75.105(c)(3) of the Education Department General Administrative Regulations (EDGAR). This notice contains proposed absolute priorities for the Professional Development program authorized by Section 9122 of Subpart 2 of Part A, Title IX of the Elementary and Secondary Education Act (ESEA) of 1965; 20 U.S.C. 7832.

The Professional Development program is a competitive grant program that supports activities to increase the number of qualified Indian individuals in professions that serve Indian people. Individuals who receive training under the Professional Development program are required to perform work related to the training received and that benefits Indian people, or are required to repay all or a prorated part of the assistance received. The requirements for the payback provision (required by Section 9122(h) of ESEA; 20 U.S.C. 7832(h)) are governed by 34 CFR 263. For the purposes of this program, the term ''Indian'' includes both American Indians and Alaska Natives as defined in 34 CFR 263.3(b) and Sec. 9161(4) of ESEA (20 U.S.C. 7881(4)).

One component of the Professional Development program supports training for qualified Indian individuals to: (1) Become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and (2) improve the skills of Indian individuals serving in these capacities. The second component of the program supports training of qualified Indian individuals in fields other than education that result in a degree at the graduate level. The proposed priorities support these training efforts by focusing all or a portion of available funds for new awards on projects that train Indians to become teachers and administrators, to improve the skills of individuals serving in those capacities, and to train personnel in fields other than education.

The Secretary also proposes procedures for implementation of the statutory requirement to give a preference for awards under the Professional Development program to: (1) programs that provide training to Indian individuals (Section 9122(e)(2); 20 U.S.C. 7832(e)(2)) and (2) eligible Indian tribes, Indian organizations and Indian institutions of higher education (Section 9153 of ESEA; 20 U.S.C. 7873).

The Secretary will announce the final priorities for this program in a notice in the **Federal Register**. The final priorities will be determined on the basis of responses to this notice and other considerations by the Department. On an annual basis the Secretary may select, from the final priorities, the absolute priorities that will apply for that fiscal year and the amount of available program funds. Funding of a particular project depends on the availability of funds, the requirements of the final priorities selected, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only one or more of these priorities, subject to meeting applicable rulemaking requirements.

Eligible Applicants

(1) Institutions of higher education, including Indian institutions of higher education;

(2) State or local educational agencies in consortium with institutions of higher education; and

(3) Indian tribes or Indian organizations in consortium with institutions of higher education.

Applications submitted by a consortium under categories (2) and (3) must meet the requirements of 34 CFR 75.127 through 75.129 of EDGAR in order to be an eligible applicant.

Absolute Priority

Under section 34 CFR 75.105 of EDGAR, the Secretary proposes to give an absolute preference to applications that meet one of the priorities selected

for that fiscal year. The Secretary proposes to reserve all or a portion of the funds available for new awards under the Professional Development program to fund only those applications that meet one of these absolute priorities:

(1) Pre-Service Training for Teachers—

(a) Provide support and training to a minimum of 25 Indian individuals to complete a pre-service education program leading to a bachelor degree in education that allows participants to meet the requirements for State certification or licensure as a teacher within a two-year period; and

(b) Provide graduates of the program with one-year of induction services while they are working in schools with predominately Indian student populations.

(2) In-Service Training for Teachers—

(a) Provide professional development activities to retrain a minimum of 25 existing teachers of Indian students that allow participants to meet State certification or licensure requirements to increase the number of teachers certified or licensed in:

(i) Subject area(s) being taught;

(ii) High-need areas where a shortage of qualified teachers exist;

(iii) Subject content area specializations such as reading or math; or

(iv) specializations in teaching culturally and linguistically unique Indian student populations; and

(b) Provide graduates of the program with one-year of induction services while they are working in schools with predominately Indian student populations.

(3) Pre-Service and In-Service Training for Teachers—

(a) Provide support and training to a minimum of 25 Indian individuals to complete a pre-service education program leading to a bachelor degree in education that allows participants to meet the requirements for State certification or licensure as a teacher within a two-year period;

(b) Provide professional development activities to retrain a minimum of 25 existing teachers of Indian students that allow participants to meet State certification or licensure requirements to increase the number of teachers certified or licensed in:

(i) Subject area or areas being taught;

(ii) High-need areas where a shortage of qualified teachers exist;

(iii) Subject content area specializations such as reading or math; or

(iv) Specializations in teaching culturally and linguistically unique Indian student populations; and

(c) Provide graduates of the program with one-year of induction services while they are working in schools with predominately Indian student populations.

(4) Pre-Service Administrator Training—

(a) Provide support and training to a minimum of 25 Indian individuals to complete a master degree in education administration that allows participants to meet the requirements for State certification or licensure as an education administrator within a two-year period, and

(b) Provide graduates of the program with one-year of induction services while they are working in schools with predominately Indian student populations.

(5) In-Service Administrator Training—

(a) Provide professional development activities to a minimum of 25 existing administrators that enhance their skills and knowledge in more than one of the following areas;

(i) Standards and assessments;

(ii) Integrating reliable, research-based teaching methods and technology into the curriculum;

(iii) Mentoring, coaching and evaluating the performance of teachers;

(iv) Site-based management;

(v) Reform efforts to improve teacher quality; and

(b) Provide graduates of the program with one-year of induction services while they are working in schools with predominately Indian student populations.

(6) Pre-Service and In-Service Training for Administrators—

(a) Provide support and training to a minimum of 25 Indian individuals to complete a master degree in education administration that allows participants to meet State certification or licensure as an education administrator within a two-year period;

(b) Provide professional development activities to a minimum of 25 existing education administrators that enhance their skills and knowledge in more than one of the following areas—

(i) Standards and assessments;

(ii) Integrating reliable, research-based teaching methods and technology into the curriculum;

(iii) Mentoring, coaching and evaluating the performance of teachers;

(iv) Site-based management;

(v) Reform efforts to improve teacher quality; and

(c) Provide graduates of the program one-year of induction services while they are working in schools with predominately Indian student populations.

(7) Training in Fields Other Than Education—

(a) Provide support and training to a minimum of 25 Indian individuals to complete a master or doctoral degree in a field other than education, or a related field, within a two-year period, and

(b) Provide graduates of the program with one-year of induction services while they are employed in positions relating to the training received and that benefits Indians.

Applications meeting one of the absolute priorities may offer professional development activities that include, but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

Induction services to be provided must include the following activities, at a minimum:

(1) Mentoring, coaching and consultation services for the participant;

(2) Participant access to research materials and information on teaching and learning or, for non-education fields of study, subject matter related to the participant's field of study;

(3) Periodic assessment of and feedback sessions on participant performance in coordination with the participant's supervisor; and

(4) Periodic meetings or seminars for participants to enhance collaboration, feedback and peer networking and support.

Applications submitted by a consortium must meet the requirements of 34 CFR 75.127 through 75.129 of EDGAR in order to be an eligible applicant. The specific requirements for the group agreement are found in 34 CFR 75.128(b).

The Secretary may select more than one absolute priority for this program in any given fiscal year.

Competitive Preference

The Secretary also proposes procedures for implementing the statutory requirement to give a preference to eligible Indian tribes, Indian organizations and Indian institutions of higher education for grants awarded under the Professional Development program (Section 9153 of ESEA; 20 U.S.C. 7873).

Under 34 CFR 75.105(c)(2)(i) of EDGAR and Sections 9122 and 9153 of ESEA (20 U.S.C. 7832 and 7873), the Secretary gives preference to applications that meet the following competitive priorities. The total number of points the Secretary proposes to

award to an application that meets a competitive priority is indicated in parentheses next to the title of the priority. These points are in addition to any points the application earns under the selection criteria for the program.

Competitive Priority 1—Preference for Training Indian Individuals (5 Points)

Background

Grants under this program may be used to provide support and training for Indian individuals to increase the number of qualified Indian individuals in professions that serve Indian people. Activities may include, but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

Grants for training educational personnel may be for pre-service or in-service training. For individuals who are being trained to enter any field other than education, the training received must be in a program resulting in a graduate degree. In awarding grants under this program, the Secretary is required to give preference to applications describing programs that train Indian individuals.

Priority

The Secretary would award 5 points to applications submitted under the Professional Development program that include only Indian individuals as training participants.

Authority: Section 9122(e)(2) of ESEA; 20 U.S.C. 7832(e)(2).

Competitive Priority 2—Preference for Indian Applicants (10 Points)

Background

An eligible entity for this program includes an institution of higher education, including an Indian institution of higher education; a State or local educational agency, in consortium with an institution of higher education; an Indian tribe or organization, in consortium with an institution of higher education. In making grants under this program, the Secretary gives preference to applications submitted by Indian tribes, Indian organizations, and Indian institutions of higher education, including a consortium of any of these entities with other eligible entities.

Priority

The Secretary would award 10 points to applications submitted by Indian tribes, Indian organizations, and Indian institutions of higher education that are eligible to participate in the Professional Development program. A consortium application of eligible entities that meets the requirements of 34 CFR 75.127–.129 of EDGAR and includes an Indian tribe, Indian organization or Indian institution of higher education would be considered eligible to receive the 10 priority points.

Authority: Section 9153 of ESEA; 20 U.S.C. 7873.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. However, Part 79 does not apply to assistance to federally recognized Indian tribes. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3W115, 400 Maryland Avenue, SW, Washington, DC, between the hours of 9 a.m. and 5:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Program Authority: Section 9122 of ESEA; U.S.C. 7832.

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(Catalog of Federal Domestic Assistance Number: 84.299 Indian Education—Special Programs)

Michael Cohen,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 00–5496 Filed 3–6–00; 8:45 am]

BILLING CODE 4000–01–P

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (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. 1451/P.L. 106–173

Abraham Lincoln Bicentennial Commission Act (Feb. 25, 2000; 114 Stat. 14)

S. 632/P.L. 106–174

Poison Control Center Enhancement and Awareness Act (Feb. 25, 2000; 114 Stat. 18)

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