SUMMARY: This notice proposes to amend the Class E airspace area at Winchester, VA. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Winchester Regional Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before November 27, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–42, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made. ''Comments to Airspace Docket No. 98–AEA–42.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 112–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Winchester, VA. A GPS RWY 14 SIAP has been developed for Winchester Regional Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operation at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

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

* * * * *

AEA VA E5 Winchester, VA [Revised]

Winchester Regional Airport, VA
(Lat. 39°08′37″ N., long. 78°08′40″ W.)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of Winchester Regional Airport.

* * * * *

Issued in Jamaica, New York, on October 19, 1998.

James K. Buckles,

Acting Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–28831 Filed 10–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

Guidelines for the Imposition and Mitigation of Penalties for Violations of 19 U.S.C. 1592

19 CFR Part 171

RIN 1515–AC08

AGENCY: U. S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to revise Appendix B to Part 171 of the Customs Regulations, which sets forth the guidelines for remitting and

mitigating penalties relating to violations of section 592 of the Tariff Act of 1930, as amended. A violation of section 592 involves the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence, or negligence. Many of the proposed changes to Appendix B reflect the Customs Modernization Act and its themes of ''informed compliance'' and ''shared responsibility.''

DATES: Comments must be received on or before December 28, 1998.

ADDRESSES: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Robert Pisani, Penalties Branch, (202) 927–1203.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the President signed the North American Free Trade Agreement Implementation Act (Public Law 103–182). The Customs Modernization portion of this Act (Title VI), popularly known as the Customs Modernization Act or ''the Mod Act'', became effective when it was signed. The Mod Act emphasizes the themes of shared responsibility and informed compliance for Customs and the public.

Consistent with the Mod Act, Customs has initiated a thorough examination and review of its procedures and processes relating to importer compliance with Customs laws, regulations, and policies. In this review, the agency has considered a number of innovative approaches to improving the service it provides the importing public as well as new approaches to encourage compliance and address incidents of non-compliance.

With regard to compliance, Customs is dedicated to educating its personnel to improve agency selection of appropriate remedies to address incidents of non-compliance. In keeping with the Mod Act theme of informed compliance, Customs is also attempting to educate the importing public about its requirements, particularly in areas involving complex import transactions. A more informed public promotes an overall greater level of compliance than the threat of an occasional and often ineffective penalty. A significant aspect of this ''shared responsibility'' and ''informed compliance'' approach is reflected in the proposed revision of the guidelines for remitting and mitigating penalties relating to violations of § 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592) (hereinafter referred to as § 592). A violation of § 592 involves the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence, or negligence. The guidelines for remitting and mitigating penalties relating to violations of § 592 appear as Appendix B to Part 171 of the Customs Regulations.

The full text of the proposed revised guidelines appears at the end of this document. It is preceded by a summary of the more significant proposed revisions to the guidelines. Much of the proposed revision of the penalty guidelines consists of a reorganization of the content of the current guidelines into a new format that is intended to more clearly identify important provisions which are contained in the present text.

Summary of Proposed Guidelines

After the introductory text, the proposed revised guidelines break current paragraph (A) into 2 paragraphs. Proposed paragraph (A) now discusses what constitutes § 592 violations and proposed paragraph (B) discusses what is meant by materiality.

Paragraph (A) now clarifies that placing merchandise in-bond is considered entering or introducing merchandise into the United States for purposes of § 592. The paragraph also makes it clear that if one unintentionally transmits a clerical error to Customs electronically, and that clerical error is transmitted repetitively by the electronic system, Customs will not consider repetitions of the non-intentional electronic transmission of the initial clerical error as constituting a pattern, unless Customs has drawn the error to the party's attention.

In the proposed new paragraph (B), defining materiality under § 592, that definition is expanded by providing that a document, statement, act, or omission is material if it significantly impairs Customs ability to collect and report accurate trade statistics, deceives the public as to the source, origin or quality of the merchandise, or constitutes an unfair trade practice in violation of federal law.

Proposed paragraph (C) now discusses the degrees of culpability under § 592. The degrees of culpability are currently discussed in paragraph (B).

A new paragraph (D) is proposed to be added to include terms used throughout the guidelines. Included in this paragraph are discussions of the terms: duty loss violations; non-duty loss violations; actual loss of duty; potential loss of duty; reasonable care; clerical error; and mistake of fact.

The proposed guidelines contain a new paragraph (E) that is intended to track the administrative penalty process in chronological order. It is a revision of current paragraph (C). It begins with the case initiation and proceeds to describe the considerations pertinent to the decision to issue a pre-penalty notice and how the different types of violations can produce different proposed claim amounts depending upon the level of culpability and the presence of mitigating and/or aggravating factors. The proposed guidelines now contain express guidance regarding statute of limitations considerations and Customs policy regarding waivers when the issuance of pre-penalty and penalty notices are involved.

Continuing in their chronological progression, the proposed guidelines next address steps to be taken when Customs decides whether to close a case or issue a penalty notice. Most of this material is presently contained in paragraph (C)(2) of the current guidelines. However, the proposed guidelines provide that penalty notices can indicate higher degrees of culpability and proposed penalty amounts than were contained in the original pre-penalty notice if less than 9 months remain before the expiration of the statute of limitations, and a waiver of the statute has not been received. The current guidelines provide that such increased penalty notices would only be issued if less than 3 months remained.

Paragraph (F) of the proposed guidelines covers the procedures that are to be followed and elements that Customs will consider as part of the case record for any mitigating and/or aggravating factors. The existing guidelines discuss mitigating factors in paragraph (F) and aggravating factors in paragraph (G). The new paragraph is arranged so the various types and degrees of violations are explained and respective mitigation considerations are explained. The paragraph also informs the reader who within Customs has the authority to cancel or remit penalty claims.

Paragraph (F)(2)(f) provides a discussion of prior disclosure and the reduced penalties based upon the different levels of culpability for a valid prior disclosure. Prior disclosure is discussed in paragraph (E) of the existing guidelines.

Paragraph (G) of the proposed guidelines discusses the factors that are considered by Customs in proposing a penalty or mitigating an assessed penalty claim. Among these factors are:

an error by Customs that contributed to the violation; the extent of cooperation by the violator with the investigation by Customs into the alleged violation; whether or not the violator takes immediate steps to remedy the situation that caused the violation; and the prior record of the violator in its dealings with Customs. This paragraph combines the factors currently located in paragraphs (F) and (H) of the existing guidelines. It was felt that a separate paragraph was no longer necessary for ''extraordinary'' factors such as the ability of Customs to obtain personal jurisdiction over the violator, the violator's financial status, and whether Customs had actual knowledge of repeated violations but failed to inform the violator thus depriving him of the opportunity to take corrective action. All these factors are now contained in the one paragraph, but additional factors may be considered in appropriate circumstances.

Paragraph (H) contains the factors that Customs believes are to be treated as aggravating factors when considering mitigation of proposed or assessed penalties. Most of these factors are currently contained in paragraph (G) of the existing guidelines. While the list of factors is not intended to be all-inclusive, two new factors have been added. They are: the discovery of evidence of a motive to evade a prohibition or restriction on the admissibility of merchandise, and failure to comply with a lawful demand for records or a Customs summons.

Paragraph (I) of the proposed guidelines addresses offers in compromise (settlement offers). This is a new element not contained in the existing guidelines. The paragraph instructs parties who wish to submit a civil offer in compromise pursuant to 19 U.S.C. 1617 to follow procedures outlined in § 161.5 of the Customs Regulations (19 CFR 161.5). The paragraph summarizes what steps will be taken by both parties once such an offer has been made.

Paragraph (J) of the proposed guidelines contains instructions to be followed in instances where Customs makes a demand for payment of actual loss of duties pursuant to § 592(d). This is a subject not addressed in the existing guidelines. The paragraph provides that Customs will follow the procedures set forth in § 162.79b of the Customs Regulations (19 CFR 162.79b) and states that no such demand will be issued unless the record establishes the presence of a violation of § 592(a). The paragraph states that, absent statute of limitations problems, Customs will endeavor to issue § 592(d) demands to concerned sureties and non-violator importers only after default by principals.

Paragraph (K) of the proposed guidelines addresses violations of § 592 by brokers. The existing guidelines discuss brokers in paragraph (I). The paragraph continues the present practice of applying the overall mitigation guidelines in instances of fraud or where the broker shares in the financial benefits of a violation. However, where there has been no fraud or sharing of the financial benefits, the proposal removes the dollar limitations contained in the present guidelines and instructs Customs to proceed against the broker under 19 U.S.C. 1641.

Paragraph (L) of the proposed guidelines covers arriving travelers and consists of a reordering of the current provisions of paragraph (J) of the present guidelines.

Paragraph (M) of the proposed guidelines refers Customs officers to other Federal agencies for recommendations in instances where violations of laws administered by other agencies are discovered. These provisions are the same as those contained in paragraph (K) of the existing guidelines.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. All such comments received from the public pursuant to this notice of proposed rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m., at the Regulations Branch, 1300 Pennsylvania Avenue, NW, 3rd Floor, Washington, D.C.

Regulatory Flexibility Act

Although comments have been solicited on this proposal, because the proposed amendment relates to rules of agency procedure and policy no notice of proposed rulemaking is required pursuant to 5 U.S.C. 553. For this reason the document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12866

Because the document is not regulatory in nature, but merely serves to inform the public about certain agency procedures and practices, the proposed amendment does not meet the criteria for a ''significant regulatory action'' under E.O. 12866.

Drafting Information: The principal author of this document was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 171

Customs duties and inspection, Law enforcement, Penalties, Seizures and forfeitures.

Proposed Amendment to the Regulations

It is proposed to amend Part 171 of the Customs Regulations (19 CFR part 171) as set forth below:

PART 171—FINES, PENALTIES, AND FORFEITURES

1. The general authority citation for Part 171 continues to read as follows:

Authority: 19 U.S.C. 66, 1592, 1618, 1624. The provisions of subpart C also issued under 22 U.S.C. 401; 46 U.S.C. App. 320 unless otherwise noted.

2. It is proposed to revise Appendix B to Part 171 to read as follows:

Appendix B to Part 171—Customs Regulations, Guidelines for the Imposition and Mitigation of Penalties for Violations of 19 U.S.C. 1592

A monetary penalty incurred under section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592; hereinafter referred to as section 592) may be remitted or mitigated under section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), if it is determined that there are mitigating circumstances to justify remission or mitigation. The guidelines below will be used by the Customs Service in arriving at a just and reasonable assessment and disposition of liabilities arising under section 592 within the stated limitations. It is intended that these guidelines shall be applied by Customs officers in pre-penalty proceedings and in determining the monetary penalty assessed in any penalty notice. The assessed penalty or penalty amount set forth in Customs administrative disposition determined in accordance with these guidelines does not limit the penalty amount which the Government may seek in bringing a civil enforcement action pursuant to section 592(e). It should be understood that any mitigated penalty is conditioned upon payment of any actual loss of duty as well as a release by the party that indicates that the mitigation

decision constitutes full accord and satisfaction. Further, mitigation decisions are not rulings within the meaning of part 177 of the Customs Regulations (19 CFR part 177). Lastly, these guidelines may supplement, and are not intended to preclude application of, any other special guidelines promulgated by Customs.

(A) Violations of Section 592

Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, a violation of section 592 occurs when a person, through fraud, gross negligence, or negligence, enters, introduces, or attempts to enter or introduce any merchandise into the commerce of the United States by means of any document, written or oral statement, or act that is material and false, or any omission that is material; or when a person aids or abets any other person in the entry, introduction, or attempted entry or introduction of merchandise by such means. It should be noted that the language ''entry, introduction, or attempted entry or introduction'' encompasses placing merchandise in-bond (e.g., filing an immediate transportation application). There is no violation if the falsity or omission is due solely to clerical error or mistake of fact, unless the error or mistake is part of a pattern of negligent conduct. Also, the unintentional repetition by an electronic system of an initial clerical error generally shall not constitute a pattern of negligent conduct. Nevertheless, if Customs has drawn the party's attention to the unintentional repetition by an electronic system of an initial clerical error, subsequent failure to correct the error could constitute a violation of section 592. Also, the unintentional repetition of a clerical mistake over a significant period of time or involving many entries could indicate a pattern of negligent conduct and a failure to exercise reasonable care.

(B) Definition of Materiality Under Section 592.

A document, statement, act, or omission is material if it had the potential to influence or was capable of influencing agency action including, but not limited to a Customs action regarding: (1) determination of the classification, appraisement, or admissibility of merchandise (e.g., whether merchandise is prohibited or restricted); (2) determination of an importer's liability for duty (including marking, antidumping, and/or countervailing duty); (3) collection and reporting of accurate trade statistics; (4) determination as to the source, origin, or quality of merchandise; (5) determination of whether an unfair trade practice has been committed under the anti-dumping or countervailing duty laws or a similar statute; (6) determination of whether an unfair act has been committed involving patent, trademark, or copyright infringement; or (7) the determination of whether any other unfair trade practice has been committed in violation of federal law.

(C) Degrees of Culpability Under Section 592

The three degrees of culpability under section 592 for the purposes of administrative proceedings are:

(1) *Negligence.* A violation is determined to be negligent if it results from an act or acts (of commission or omission) done through either the failure to exercise the degree of reasonable care and competence expected from a person in the same circumstances either: (a) in ascertaining the facts or in drawing inferences therefrom, in ascertaining the offender's obligations under the statute; or (b) in communicating information in a manner so that it may be understood by the recipient. As a general rule, a violation is negligent if it results from failure to exercise reasonable care and competence: (a) to ensure that statements made and information provided in connection with the importation of merchandise are complete and accurate; or (b) to perform any material act required by statute or regulation.

(2) *Gross Negligence.* A violation is deemed to be grossly negligent if it results from an act or acts (of commission or omission) done with actual knowledge of or wanton disregard for the relevant facts and with indifference to or disregard for the offender's obligations under the statute.

(3) *Fraud.* A violation is determined to be fraudulent if a material false statement, omission, or act in connection with the transaction was committed (or omitted) knowingly, *i.e.*, was done voluntarily and intentionally, as established by clear and convincing evidence.

(D) Discussion of Additional Terms

(1) *Duty Loss Violations.* A section 592 duty loss violation involves those cases where there has been a loss of duty attributable to an alleged violation.

(2) *Non-duty Loss Violations.* A section 592 non-duty loss violation involves cases where the record indicates that an alleged violation is principally attributable to evasion of a prohibition, restriction, or other non-duty related consideration involving the importation of the merchandise.

(3) *Actual Loss of Duties.* An actual loss of duty occurs where there is a loss of duty including any marking, anti-dumping, or countervailing duties, or any tax and fee (e.g., merchandise processing and/or harbor maintenance fees) attributable to a liquidated Customs entry, and the merchandise covered by the entry has been entered or introduced (or attempted to be entered or introduced) in violation of section 592.

(4) *Potential Loss of Duties.* A potential loss of duty occurs where an entry remains unliquidated and there is a loss of duty, including any marking, anti-dumping or countervailing duties or any tax and fee (e.g., merchandise processing and/or harbor maintenance fees) attributable to a violation of section 592, but the violation was discovered prior to liquidation. In addition, a potential loss of duty exists where Customs discovers the violation and corrects the entry to reflect liquidation at the proper classification and value. In other words, the potential loss in such cases equals the amount of duty, tax and fee that would have occurred had Customs not discovered the violation prior to liquidation and taken steps to correct the entry.

(5) *Total Loss of Duty.* The total loss of duty is the sum of any actual and potential loss of duty attributable to alleged violations of section 592 in a particular case. Payment of any actual and/or potential loss of duty shall not affect or reduce the total loss of duty used for assessing penalties as set forth in these guidelines. The ''multiples'' set forth below in paragraph (F)(2) involving assessment and disposition of cases shall utilize the ''total loss of duty'' amount in arriving at the appropriate assessment or disposition.

(6) *Reasonable Care.* General Standard: Importers of record or their agents are required to exercise reasonable care in fulfilling their responsibilities involving entry of merchandise. These responsibilities include, but are not limited to: providing a classification and value for the merchandise; furnishing information sufficient to permit Customs to determine the final classification and valuation of merchandise; and taking measures that will lead to and assure the preparation of accurate documentation. Customs will consider an importer's failure to follow a binding Customs ruling a lack of reasonable care. In addition, unreasonable classification will be considered a lack of reasonable care (e.g., imported snow skis are classified as water skis). Failure

to exercise reasonable care in connection with the importation of merchandise may result in imposition of a section 592 penalty for fraud, gross negligence or negligence.

(7) *Clerical Error.* A clerical error is an error in the preparation, assembly or submission of import documentation or information provided to Customs that results from a mistake in arithmetic or transcription that is not part of a pattern of negligence. The mere non-intentional repetition by an electronic system of an initial clerical error does not constitute a pattern of negligence. Nevertheless, as stated earlier, if Customs has drawn a party's attention to the non-intentional repetition by an electronic system of an initial clerical error, subsequent failure to correct the error could constitute a violation of section 592. Also, the unintentional repetition of a clerical mistake over a significant period of time or involving many entries could indicate a pattern of negligent conduct and a failure to exercise reasonable care.

(8) *Mistake of Fact.* A mistake of fact is a false statement or omission that is based on a bona fide erroneous belief as to the facts, so long as the belief itself did not result from negligence in ascertaining the accuracy of the facts.

(E) Penalty Assessment

(1) *Case Initiation—Pre-penalty Notice.*

(a) *Generally.* As provided in section 162.77, Customs Regulations (19 CFR 162.77), if the appropriate Customs field officer has reasonable cause to believe that a violation of section 592 has occurred and determines that further proceedings are warranted, the Customs field officer shall issue to each person concerned a notice of intent to issue a claim for a monetary penalty (i.e., the ''pre-penalty notice''). In issuing such a pre-penalty notice, the Customs field officer shall make a tentative determination of the degree of culpability and the amount of the proposed claim. Payment of any actual and/or potential loss of duty shall not affect or reduce the total loss of duty used for assessing penalties as set forth in these guidelines. The ''multiples'' set forth in paragraphs (F)(2)(a)(i), (b)(i) and (c)(i) involving assessment and disposition of duty loss violation cases shall use the ''total loss of duty'' amount in arriving at the appropriate assessment or disposition. Further, where separate duty loss and non-duty loss violations occur on the same entry, it is within the Customs field officer's discretion to assess both duty loss and non-duty loss penalties, or only one of them. Where only one of the penalties is assessed, the Customs field officer has the discretion to select which penalty (duty loss or non-duty loss) shall be assessed. Also, where there is only one violation accompanied by an incidental or nominal loss of duties, the Customs field officer may assess a non-duty loss penalty where the incidental or nominal duty loss resulted from a separate non-duty loss violation. The Customs field officer shall propose a level of culpability in the pre-penalty notice that conforms to the level of culpability suggested by the evidence at the time of issuance. Moreover, the pre-penalty notice shall include a statement that it is Customs practice to base its actions on the earliest point in time that the statute of limitations may be asserted (i.e., the date of occurrence of the alleged violation) inasmuch as the final resolution of a case in court may be less than a finding of fraud. A pre-penalty notice that is issued to a party in a case where Customs determines a claimed prior disclosure is not valid—owing to the disclosing party's knowledge of the commencement of a formal investigation of a disclosed violation—shall include a copy of a written document that evidences the commencement of a formal investigation. In addition, a pre-penalty notice is not required if a violation involves a non-commercial importation or if the proposed claim does not exceed $1,000.

(b) Pre-penalty Notice—Proposed Claim amount.

(i) *Fraud.* In general, if a violation is determined to be the result of fraud, the proposed claim ordinarily will be assessed in an amount equal to the domestic value of the merchandise. Exceptions to assessing the penalty at the domestic value may be warranted in unusual circumstances such as a case where the domestic value of the merchandise is disproportionately high in comparison to the loss of duty attributable to an alleged violation (e.g., a total loss of duty of $10,000 involving 10 entries with a total domestic value of $2,000,000). Also, it is incumbent upon the appropriate Customs field officer to consider whether mitigating factors are present warranting a reduction in the customary domestic value assessment. In all 592 cases of this nature regardless of the dollar amount of the proposed claim, the Customs field officer shall obtain the approval of the Penalties Branch at Headquarters prior to issuance of a pre-penalty notice at an amount less than domestic value.

(ii) *Gross Negligence and Negligence.* In determining the amount of the proposed claim in cases involving gross negligence and negligence, the appropriate Customs field officer shall take into account the gravity of the offense, the amount of loss of duty, the extent of wrongdoing, mitigating or aggravating factors, and other factors bearing upon the seriousness of a violation, but in no case shall the assessed penalty exceed the statutory ceilings prescribed in section 592. In cases involving gross negligence and negligence, penalties equivalent to the ceilings stated in paragraphs (F)(2)(b) and (c) regarding disposition of cases may be appropriate in cases involving serious violations, e.g., violations involving a high loss of duty or significant evasion of import prohibitions or restrictions. A ''serious'' violation need not result in a loss of duty. The violation may be serious because it affects the admissibility of merchandise or the enforcement of other laws, as in the case of quota evasions, false statements made to conceal the dumping of merchandise, or violations of exclusionary orders of the International Trade Commission.

(c) *Technical Violations.* Violations where the loss of duty is nonexistent or minimal and/or that have an insignificant impact on enforcement of the laws of the United States may justify a proposed penalty in a fixed amount not related to the value of merchandise, but an amount believed sufficient to have a deterrent effect: e.g., violations involving the subsequent sale of merchandise or vehicles entered for personal use; violations involving failure to comply with declaration or entry requirements that do not change the admissibility or entry status of merchandise or its appraised value or classification; violations involving the illegal diversion to domestic use of instruments of international traffic; and local point-to-point traffic violations. Generally, a penalty in a fixed amount ranging from $1,000 to $2,000 is appropriate in cases where there are no prior violations of the same kind. However, fixed sums ranging from $2,000 to $10,000 may be appropriate in the case of multiple or repeated violations. Fixed sum penalty amounts are not subject to further mitigation and may not exceed the maximum amounts stated in section 592 and in these guidelines.

(d) *Statute of Limitations Considerations—Waivers.* Prior to issuance of any section 592 pre-penalty notice, the appropriate Customs field officer shall calculate the statute of limitations attributable to an alleged violation. Inasmuch as 592 cases are reviewed de novo by the Court of International Trade, the statute of limitations calculation in cases alleging fraud should assume a level of

culpability of gross negligence or negligence, i.e., ordinarily applying a shorter period of time for statute of limitations purposes. In accordance with section 162.78 of the Customs Regulations, if less than 1 year remains before the statute of limitations may be raised as a defense, a shortened response time may be specified in the notice—but in no case, less than 7 business days from the date of mailing. In cases of shortened response times, the Customs field officer should notify alleged violators by telephone and use all reasonable means (e.g., facsimile transmission of a copy of the notice) to expedite receipt of the notice by the alleged violators. Also in such cases, the appropriate Customs field officer should advise the alleged violator that additional time to respond to the pre-penalty notice will be granted only if an acceptable waiver of the statute of limitations is submitted to Customs. With regard to waivers of the statute of limitations, it is Customs practice to request waivers concurrently both from all potential alleged violators and their sureties.

(2) *Closure of Case or Issuance of Penalty Notice.*

(a) *Case Closure.* The appropriate Customs field officer may find, after consideration of the record in the case, including any pre-penalty response/oral presentation, that issuance of a penalty notice is not warranted. In such cases, the Customs field officer shall provide written notification to the alleged violator who received the subject pre-penalty notice that the case is closed.

(b) *Issuance of Penalty Notice.* In the event that circumstances warrant issuance of a notice of penalty pursuant to section 162.79 of the Customs Regulations, the appropriate Customs field officer shall give consideration to all available evidence with respect to the existence of material false statements or omissions (including evidence presented by an alleged violator), the degree of culpability, the existence of a prior disclosure, the seriousness of the violation, and the existence of mitigating or aggravating factors. In cases involving fraud, the penalty notice shall be in the amount of the domestic value of the merchandise unless a lesser amount is warranted as described in paragraph (E)(1)(b)(i). In general, the degree of culpability or proposed penalty amount stated in a pre-penalty notice shall not be increased in the penalty notice. If, subsequent to the issuance of a pre-penalty notice and upon further review of the record, the appropriate Customs field officer determines that a higher degree of culpability exists, the original pre-penalty notice should be rescinded and a new pre-penalty notice issued that indicates the higher degree of culpability and increased proposed penalty amount. However, if less than 9 months remain before expiration of the statute of limitations, and a waiver of the statute of limitations has not been provided to Customs by the party named in the pre-penalty notice, the higher degree of culpability and higher penalty amount may be indicated in the notice of penalty without rescinding the earlier pre-penalty notice. In such cases, the Customs field officer shall consider whether a lower degree of culpability is appropriate or whether to change the information contained in the pre-penalty notice.

(c) *Statute of Limitations Considerations.* Prior to issuance of any section 592 penalty notice, the appropriate Customs field officer again shall calculate the statute of limitations attributable to the alleged violation and request a waiver(s) of the statute, if necessary. In accordance with section 171.12 of the Customs Regulations, if less than 180 days remain before the statute of limitations may be raised as a defense, a shortened response time may be specified in the notice—but in no case less than 7 business days from the date of mailing. In such cases, the Customs field officer should notify an alleged violator by telephone and use all reasonable means (e.g., facsimile transmission of a copy) to expedite receipt of the penalty notice by the alleged violator. Also, in such cases, the Customs field officer should advise an alleged violator that, if an acceptable waiver of the statute of limitations is provided, additional time to respond to the penalty notice may be granted.

(F) Administrative Penalty Disposition

(1) *Generally.* It is the policy of the Department of the Treasury and the Customs Service to grant mitigation in appropriate circumstances. In certain cases, based upon criteria to be developed by Customs, mitigation may take an alternative form, whereby a violator may eliminate or reduce his or her section 592 penalty liability by taking action(s) to correct problems that caused the violation. In any case, in determining the administrative section 592 penalty disposition, the appropriate Customs field officer shall consider the entire case record—taking into account the presence of any mitigating or aggravating factors. All such factors should be set forth in the written administrative section 592 penalty decision. An administrative disposition is considered ''mitigated'' if the remission amount in the Customs decision is less than the amount stated as a penalty in the penalty notice. Once again, Customs emphasizes that any penalty liability which is mitigated is conditioned upon payment of any actual loss of duty in addition to that penalty. Finally, section 592 penalty dispositions in duty-loss and non-duty-loss cases will proceed in the manner set forth below.

(2) *Dispositions.*

(a) *Fraudulent Violation.* Penalty dispositions for a fraudulent violation shall be calculated as follows:

(i) *Duty Loss Violation.* An amount ranging from a minimum of 5 times the total loss of duty to a maximum of 8 times the total loss of duty—but in any such case the amount may not exceed the domestic value of the merchandise. A penalty disposition greater than 8 times the total loss of duty may be imposed in a case involving an egregious violation, or a public health and safety violation, or due to the presence of aggravating factors, but again, the amount may not exceed the domestic value of the merchandise.

(ii) *Non-Duty Loss Violation.* An amount ranging from a minimum of 50 percent of the dutiable value to a maximum of 80 percent of the dutiable value of the merchandise. A penalty disposition greater than 80 percent of the dutiable value may be imposed in a case involving an egregious violation, or a public health and safety violation, or due to the presence of aggravating factors, but the amount may not exceed the domestic value of the merchandise.

(b) *Grossly Negligent Violation.* Penalty dispositions for a grossly negligent violation shall be calculated as follows:

(i) *Duty Loss Violation.* An amount ranging from a minimum of 2.5 times the total loss of duty to a maximum of 4 times the total loss of duty—but in any such case, the amount may not exceed the domestic value of the merchandise.

(ii) *Non-Duty Loss Violation.* An amount ranging from a minimum of 25 percent of the dutiable value to a maximum of 40 percent of the dutiable value of the merchandise—but in any such case, the amount may not exceed the domestic value of the merchandise.

(c) *Negligent Violation.* Penalty dispositions for a negligent violation shall be calculated as follows:

(i) *Duty Loss Violation.* An amount ranging from a minimum of 0.5 times the total loss of duty to a maximum of 2 times the total loss of duty, but, in any such case, the amount may not exceed the domestic value of the merchandise.

(ii) Non-Duty Loss Violation. An amount ranging from a minimum of 5 percent of the dutiable value to a

maximum of 20 percent of the dutiable value of the merchandise, but, in any such case, the amount may not exceed the domestic value of the merchandise.

(d) *Authority to Cancel Claim.* Upon issuance of a penalty notice, Customs has set forth its formal monetary penalty claim. Except as provided under 19 CFR 171.31, in those section 592 cases within the administrative jurisdiction of the concerned Customs field office, the appropriate Customs field officer shall cancel any such formal claim whenever it is determined that an essential element of the alleged violation is not established by the agency record, including pre-penalty and penalty responses provided by the alleged violator. Except as provided under 19 CFR 171.31, in those section 592 cases within Customs Headquarters jurisdiction, the appropriate Customs field officer shall cancel any such formal claim whenever it is determined that an essential element of the alleged violation is not established by the agency record, and such cancellation action precedes the date of the Customs field officer's receipt of the alleged violator's petition responding to the penalty notice. On and after the date of Customs receipt of the petition responding to the penalty notice, jurisdiction over the action rests with Customs Headquarters including the authority to cancel the claim.

(e) *Remission of Claim.* If the Customs field officer believes that a claim for monetary penalty should be remitted for a reason not set forth in these guidelines, the Customs field officer should first seek approval from the Chief, Penalties Branch, Customs Service Headquarters.

(f) *Prior Disclosure Dispositions.* It is the policy of the Department of the Treasury and the Customs Service to encourage the submission of valid prior disclosures that comport with the laws, regulations, and policies governing this provision of section 592. Customs will determine the validity of the prior disclosure including whether or not the prior disclosure sets forth all the required elements of a violation of section 592. A valid prior disclosure warrants the imposition of the reduced Customs civil penalties set forth below:

(1) *Fraudulent Violation.*

(a) *Duty Loss Violation.* The claim for monetary penalty shall be equal to 100 percent of the total loss of duty (i.e., actual + potential) resulting from the violation.

(b) *Non-Duty Loss Violation.* The claim for monetary penalty shall be equal to 10 percent of the dutiable value of the merchandise in question.

(2) *Gross Negligence and Negligence Violation.*

(a) *Duty Loss Violation.* The claim for monetary penalty shall be equal to the interest on the actual loss of duty computed from the date of liquidation to the date of the party's tender of the actual loss of duty resulting from the violation. Customs notes that there is no monetary penalty in these cases if the duty loss is potential in nature.

(b) *Non-Duty Loss Violation.* There is no monetary penalty in such cases and any claim for monetary penalty which had been issued prior to the decision granting prior disclosure shall be remitted in full.

(G) Mitigating Factors

The following factors shall be considered in mitigation of the proposed or assessed penalty claim or the amount of the administrative penalty decision, provided that the case record sufficiently establishes their existence. The list is not all-inclusive.

(1) *Contributory Customs Error.* This factor includes misleading or erroneous advice given by a Customs official *in writing* to the alleged violator only if it appears that the alleged violator reasonably relied upon the information and the alleged violator fully and accurately informed Customs of all relevant facts. The concept of comparative negligence may be utilized in determining the weight to be assigned to this factor. If it is determined that the Customs error was the sole cause of the violation, the proposed or assessed penalty claim shall be canceled. If the Customs error contributed to the violation, but the violator also is culpable, the Customs error shall be considered as a mitigating factor.

(2) *Cooperation with the Investigation.* To obtain the benefits of this factor, the violator must exhibit extraordinary cooperation beyond that expected from a person under investigation for a Customs violation. Some examples of the cooperation contemplated include assisting Customs officers to an unusual degree in auditing the books and records of the violator (e.g., incurring extraordinary expenses in providing computer runs solely for submission to Customs to assist the agency in cases involving an unusually large number of entries and/or complex issues). Another example consists of assisting Customs in obtaining additional information relating to the subject violation or other violations. Merely providing the books and records of the violator should not be considered cooperation justifying mitigation inasmuch as Customs has the right to examine an importer's books and records pursuant to 19 U.S.C. 1508–1509.

(3) *Immediate Remedial Action.* This factor includes the payment of the actual loss of duty prior to the issuance of a penalty notice and within 30 days after Customs notifies the alleged violator of the actual loss of duties attributable to the alleged violation. In appropriate cases, where the violator provides evidence that immediately after learning of the violation, substantial remedial action was taken to correct organizational or procedural defects, immediate remedial action may be granted as a mitigating factor. Customs encourages immediate remedial action to ensure against future incidents of non-compliance.

(4) *Prior Good Record.* Prior good record is a factor only if the alleged violator is able to demonstrate a consistent pattern of importations without violation of section 592, or any other statute prohibiting false or fraudulent importation practices. This factor will not be considered in alleged fraudulent violations of section 592.

(5) *Inability to Pay the Customs Penalty.* The party claiming the existence of this factor must present documentary evidence in support thereof, including copies of income tax returns for the previous 3 years, and an audited financial statement for the most recent fiscal quarter. In certain cases, Customs may waive the production of an audited financial statement or may request alternative or additional financial data in order to facilitate an analysis of a claim of inability to pay (e.g., examination of the financial records of a foreign entity related to the U.S. company claiming inability to pay).

(6) *Customs Knowledge.* Additional relief in non-fraud cases (which also are not the subject of a criminal investigation) will be granted if it is determined that Customs had actual knowledge of a violation and, without justification, failed to inform the violator so that it could have taken earlier corrective action. In such cases, if a penalty is to be assessed involving repeated violations of the same kind, the maximum penalty amount for violations occurring after the date on which actual knowledge was obtained by Customs will be limited to two times the loss of duty in duty-loss cases or twenty percent of the dutiable value in non-duty-loss cases if the continuing violations were the result of gross negligence, or the lesser of one time the loss of duty in duty-loss cases or ten percent of dutiable value in non-duty-loss cases if the violations were the result of negligence. This factor shall not be applicable when a substantial

delay in the investigation is attributable to the alleged violator.

(H) Aggravating Factors

Certain factors may be determined to be aggravating factors in calculating the amount of the proposed or assessed penalty claim or the amount of the administrative penalty decision. The presence of one or more aggravating factors may not be used to raise the level of culpability attributable to the alleged violations, but may be utilized to offset the presence of mitigating factors. The following factors shall be considered ''aggravating factors,'' provided that the case record sufficiently establishes their existence. The list is not exclusive.

(1) Obstructing an investigation or audit,

(2) Withholding evidence,

(3) Providing misleading information concerning the violation,

(4) Prior substantive violations of section 592 for which a final administrative finding of culpability has been made,

(5) Textile imports that have been the subject of illegal transshipment, whether or not the merchandise bears false country of origin markings,

(6) Evidence of a motive to evade a prohibition or restriction on the admissibility of the merchandise (e.g., evading a quota restriction),

(7) Failure to comply with a lawful demand for records or a Customs summons.

(I) Offers in Compromise (''Settlement Offers'')

Parties who wish to submit a civil offer in compromise pursuant to title 19, United States Code, section 1617 (also known as a ''settlement offer'') in connection with any section 592 claim or potential section 592 claim should follow the procedures outlined in section 161.5 of the Customs Regulations (19 CFR 161.5). Settlement offers do not involve ''mitigation'' of a claim or potential claim, but rather ''compromise'' an action or potential action where Customs evaluation of potential litigation risks, or the alleged violator's financial position, justifies such a disposition. In any case where a portion of the offered amount represents a tender of unpaid duties, the offeror may designate the amount attributable to such duties in the written offer; otherwise the Customs letter of acceptance will so designate any such duty amount. The offered amount should be deposited at the Customs field office responsible for handling the section 592 claim or potential section 592 claim. The offered amount will be held in a suspense account pending acceptance or rejection of the offer in compromise. In the event the offer is rejected, the concerned Customs field office shall promptly initiate a refund of the money deposited in the suspense account to the offeror.

(J) Section 592(d) Demands

Section 592(d) demands for actual losses of duty ordinarily are issued in connection with a penalty action, or as a separate demand without an associated penalty action. In either case, information must be present establishing a violation of section 592(a). In those cases where the appropriate Customs field officer determines that issuance of a penalty under section 592 is not warranted (notwithstanding the presence of information establishing a violation of section 592(a)), but that circumstances do warrant issuance of a demand for payment of an actual loss of duty pursuant to section 592(d), the Customs field officer shall follow the procedures set forth in section 162.79b of the Customs Regulations (19 CFR 162.79b). Except in cases where less than one year remains before the statute of limitations may be raised as a defense, information copies of all section 592(d) demands should be sent to all concerned sureties and the importer of record if such party is not an alleged violator. Also, except in cases where less than one year remains before the statute of limitations may be raised as a defense, Customs will endeavor to issue all section 592(d) demands to concerned sureties and non-violator importers of record only after default by principals.

(K) Customs Brokers

If a customs broker commits a section 592 violation and the violation involves fraud, or the broker committed a grossly negligent or negligent violation and shared in the benefits of the violation to an extent over and above customary brokerage fees, the customs broker shall be subject to these guidelines. However, if the customs broker commits either a grossly negligent or negligent violation of section 592 (without sharing in the benefits of the violation as described above), the concerned Customs field officer shall proceed against the customs broker pursuant to the remedies provided under 19 U.S.C. 1641.

(L) Arriving Travelers

(1) *Liability.* Except as set forth below, proposed and assessed penalties for violations by an arriving traveler must be determined in accordance with these guidelines.

(2) *Limitations on Liability on Non-commercial Violations.* In the absence of a referral for criminal prosecution, monetary penalties assessed in the case of an alleged first-offense, non-commercial, fraudulent violation by an arriving traveler will generally be limited as follows:

(a) *Fraud—Duty-loss Violation.* An amount ranging from a minimum of three times the loss of duty to a maximum of five times the loss of duty, provided the loss of duty is also paid;

(b) *Fraud—Non-duty Loss Violation.* An amount ranging from a minimum of 30 percent of the dutiable value of the merchandise to a maximum of 50 percent of its dutiable value;

(c) *Gross Negligence—Duty Loss Violation.* An amount ranging from a minimum of 1.5 times the loss of duty to a maximum of 2.5 times the loss of duty provided the loss of duty is also paid;

(d) *Gross Negligence—Non-duty Loss Violation.* An amount ranging from a minimum of 15 percent of the dutiable value of the merchandise to a maximum of 25 percent of its dutiable value;

(e) *Negligence—Duty Loss Violation.* An amount ranging from a minimum of .25 times the loss of duty to a maximum of 1.25 times the loss of duty provided that the loss of duty is also paid;

(f) *Negligence—Non-duty Loss Violation.* An amount ranging from a minimum of 2.5 percent of the dutiable value of the merchandise to a maximum of 12.5 percent of its dutiable value;

(g) *Special Assessments/Dispositions.* No penalty action shall be initiated against an arriving traveller if the violation is not fraudulent or commercial, the loss of duty is $100.00 or less, and there are no other concurrent or prior violations of section 592 or other statutes prohibiting false or fraudulent importation practices. However, all lawful duties shall be collected. Also, no penalty cases shall be initiated against an arriving traveler if the violation is not fraudulent or commercial, there are no other concurrent or prior violations of section 592, and a penalty is not believed necessary to deter future violations or to serve a law enforcement purpose.

(M) Violations of Laws Administered by Other Federal Agencies

Violations of laws administered by other federal agencies (such as the Food and Drug Administration, Consumer Product Safety Commission, Foreign Assets Control, Agriculture, Fish and Wildlife) should be referred to the appropriate agency for its recommendation. Such recommendation, if promptly tendered, will be given due consideration, and may be followed provided the

recommendation would not result in a disposition inconsistent with these guidelines.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: August 3, 1998.

Dennis M. O'Connell.

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–28786 Filed 10–27–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104641–97]

RIN 1545–AV48

Equity Options Without Standard Terms; Special Rules and Definitions; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations that provide guidance on the application of the rule governing qualified covered calls.

DATES: The public hearing originally scheduled for Wednesday, November 4, 1998, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1092 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Thursday, June 25, 1998 (63 FR 34616), announced that the public hearing would be held on Wednesday, November 4, 1998, beginning at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Wednesday, November 4, 1998, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–28789 Filed 10–27–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS–62156C; FRL–6041–1]

RIN 2070–AC63

Lead, Identification of Dangerous Levels of Lead; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA will hold a meeting to provide an opportunity for the public to provide additional comment on a proposed rule to establish standards for lead-based paint hazards in most pre-1978 housing and child-occupied facilities. The rule is being issued under authority of section 403 of the Toxic Substances Control Act (TSCA). The proposed rule would also establish, under authority of TSCA section 402, residential lead dust cleanup levels and amendments to dust and soil sampling requirements and, under authority of TSCA section 404, amendments to State and Tribal program authorization requirements.

DATES: The public meeting will take place from 1 p.m. to 5 p.m., and from 6 p.m to 9 p.m. on November 16, 1998.

ADDRESSES: The meeting will be held at the Grand Hyatt San Francisco, 345 Stockton Street, San Francisco, CA 94108.

FOR FURTHER INFORMATION CONTACT: *To register for time to present public comments, please contact:* National Lead Information Clearinghouse (NLIC), 1025 Connecticut Ave., Washington DC 20036–5405, telephone: 800–424–LEAD (5323). *For technical and policy questions contact:* Jonathan Jacobson, National Program Chemical Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–3779, e-mail: jacobson.jonathan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 3, 1998 (63 FR 30302)(FRL–5791–9), EPA issued a proposed rule under Title IV of TSCA. Section 403 of TSCA (15 U.S.C. 2683) directs EPA to promulgate regulations identifying lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil. Section 402 of TSCA (15 U.S.C. 2682) directs EPA to promulgate regulations governing lead-based paint activities. Section 404 of TSCA (15 U.S.C. 2684) requires that any State that seeks to administer and enforce the requirements established by the Agency under section 402 of TSCA may submit to the Administrator a request for authorization of such a program.

In response to growing interest in the proposed rule, EPA published in the **Federal Register** of July 2, 1998 (63 FR 39262)(FRL–6017–4), an extension of the original deadline for submission of comments from September 1, 1998 to October 1, 1998. The Agency has now decided that it would like to provide members of the public the opportunity to present oral comments to Agency officials. Accordingly, EPA published in the **Federal Register** of October 1, 1998, (63 FR 52662)(FRL–6037–7), notice of a further extension of the comment period to November 30, 1998, to allow for this meeting. The purpose of this meeting is to enhance the discussion of the issues by enabling interested parties to hear each other's perspectives.

II. Meeting Process

EPA will hear oral comments on a first-come, first-served basis. Individuals are requested to limit their presentations to 10 minutes in order to allow as many persons as possible a fair chance to participate. Individuals interested in presenting comments at the meeting should register in advance by contacting the National Lead Information Clearinghouse at 1–800–424–LEAD (5323). Individuals should indicate whether they wish to speak at the afternoon or evening session. EPA requests that members of the public register by November 9, 1998, although persons may register to speak at the meeting. Persons who register to speak at the meeting will be accommodated on a time available basis. All statements will be made a part of the public record and will be considered in the development of the final rule.

III. Public Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS–62156C, which does not contain any information claimed as Confidential Business Information (CBI), and is available for inspection from 12 noon to 4 p.m., Monday through Friday exculding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.